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LEGISLATIVE HISTORY

Public Law 89-601

H. R. 13712

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INDEX AND SUMMARY OF H. R. 13712

Mar.	16, 1966	Rep. Dent introduced H. R. 13712 which was referred to House Education and Labor Committee. Print of bill as introduced.
Mar.	17, 1966	House subcommittee approved H. R. 13712.
Mar.	21, 1966	House committee voted to report H. R. 13712.
Mar.	29, 1966	House committee reported H. R. 13712 with an amendment. H. Report 1366. Print of bill and report.
		Rep. Dent inserted summary of the bill.
May	11, 1966	House Rules Committee reported resolution for consideration of H. R. 13712.
May	24, 1966	House began debate on H. R. 13712.
May	25, 1966	House continued debate on H. R. 13712.
May	26, 1966	House passed H. R. 13712 with amendments.
May	27, 1966	H. R. 13712 was referred to Senate Labor and Public Welfare Committee. Print of bill as referred.
June	16, 1966	Sen. Javits submitted farm labor amendment.
July	15, 1966	Senate subcommittee approved H. R. 13712.
July	28, 1966	Sen. Javits submitted an amendment.
Aug.	16, 1966	Senate committee voted to report H. R. 13712.
Aug.	23, 1966	Senate committee reported H. R. 13712 with an amendment in the nature of a substitute.
		Senate made H. R. 13712 the pending business.
Aug.	24, 1966	Senate began debate on H. R. 13712.
Aug.	25, 1966	Senate continued debate on H. R. 13712.
Aug.	26, 1966	Senate passed H. R. 13712 with amendments. Senate conferees were appointed.

INDEX AND SUMMARY OF H. R. 13712, cont'd

Aug. 30, 1966	House conferees were appointed on H. R. 13712.
Sept. 6, 1966	House received conference report on H. R. 13712. H. Report No. 2004. Print of report.
Sept. 7, 1966	House agreed to conference report on H. R. 13712.
Sept. 14, 1966	Senate agreed to conference report.
Sept. 23, 1966	Approved: Public Law 89-601.

DIGEST OF PUBLIC LAW 89-601

FAIR LABOR STANDARDS AMENDMENTS OF 1966. Amends the Fair Labor Standards Act of 1938 to extend its protection to additional employees and raise the minimum wage. Includes certain hired farmworkers under the minimum wage provisions, and repeals certain overtime exemptions for employees of agricultural processing industries.

H. R. 13712

IN THE HOUSE OF REPRESENTATIVES

March 1908.

OF THE COMMITTEE ON COMMERCE AND TRADE,
UNITED STATES SENATE.

REPORT

A BILL

TO AMEND THE LAW RELATIVE TO THE REGISTRATION OF
VESSELS OF THE UNITED STATES, AND TO PROVIDE
FOR THE REGISTRATION OF VESSELS OF THE UNITED STATES
OF AMERICA.

By Mr. [Name], Chairman of the Committee on Commerce and Trade,
United States Senate.

Printed by the Government Printing Office, Washington, D. C.

89TH CONGRESS
2D SESSION

H. R. 13712

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 1966

Mr. DENT introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Fair Labor Standards
4 Amendments of 1966".

TITLE I—DEFINITIONS

TIPS

7 SEC. 101. (a) Section 3 (m) of the Fair Labor Stand-
8 ards Act of 1938 is amended by adding at the end thereof
9 the following new sentence: "In determining the wage of
10 a tipped employee, the amount paid such employee by his

1 employer shall be deemed to be increased on account of tips
2 by an amount determined by the employer, but not—

3 “(1) during the first two years from the effective
4 date of the Fair Labor Standards Amendments of 1966,
5 by an amount in excess of 35 per centum of the applica-
6 ble minimum wage rate,

7 “(2) during the third and fourth year from such
8 date, by an amount in excess of 40 per centum of such
9 rate, and

10 “(3) during each year thereafter, by an amount
11 in excess of 45 per centum of such rate,
12 except that in the case of an employee who (either himself
13 or acting through his representative) shows to the satisfac-
14 tion of the Secretary that the actual amount of tips received
15 by him was less than the amount determined by the employer
16 as the amount by which the wage paid him was deemed to
17 be increased under this sentence, the amount paid such em-
18 ployee by his employer shall be deemed to have been in-
19 creased by such lesser amount.”

20 (b) Section 3 of such Act is amended by adding at
21 the end thereof the following new subsection:

22 “(t) ‘Tipped employee’ means any employee engaged
23 in an occupation in which he customarily and regularly
24 receives more than \$20 a month in tips.”

DEFINITION OF ENTERPRISE

SEC. 102. (a) Section 3 (r) of such Act is amended by adding at the end thereof the following: “For purposes of this subsection, the activities performed by any person or persons—

“(1) in connection with the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally handicapped or gifted children, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit), or

“(2) in connection with the operation of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit),

shall be deemed to be activities performed for a common business purpose.”

(b) Section 3 (d) of such Act is amended by inserting after “of a State” the following: “(except with respect to

1 employees of a State, or a political subdivision thereof, em-
2 ployed (1) in a hospital, institution, or school referred to in
3 the last sentence of subsection (r) of this section, or (2) in
4 the operation of a railway or carrier referred to in such
5 sentence) ”.

6 (c) Section 3 (s) of such Act is amended to read as
7 follows:

8 “(s) ‘Enterprise engaged in commerce or in the pro-
9 duction of goods for commerce’ means an enterprise which
10 has employees engaged in commerce or in the production of
11 goods for commerce, including employees handling, selling,
12 or otherwise working on goods that have been moved in or
13 produced for commerce by any person, and which—

14 “(1) during the period February 1, 1967, through
15 January 31, 1969, is an enterprise whose annual gross
16 volume of sales made or business done is not less than
17 \$500,000 (exclusive of excise taxes at the retail level
18 which are separately stated) or is a gasoline service
19 establishment whose annual gross volume of sales is not
20 less than \$250,000 (exclusive of excise taxes at the
21 retail level which are separately stated), and beginning
22 February 1, 1969, is an enterprise whose annual gross
23 volume of sales made or business done is not less than
24 \$250,000 (exclusive of excise taxes at the retail level
25 which are separately stated) ;

1 “(2) is engaged in laundering, cleaning, or re-
2 pairing clothing or fabrics;

3 “(3) is engaged in the business of construction
4 or reconstruction, or both; or

5 “(4) is engaged in the operation of a hospital, an
6 institution primarily engaged in the care of the sick,
7 the aged, the mentally ill or defective who reside on the
8 premises of such institution, a school for mentally handi-
9 capped or gifted children, or an institution of higher
10 education (regardless of whether or not such hospital,
11 institution, or school is public or private or operated for
12 profit or not for profit) .

13 Any establishment which has as its only regular employees
14 the owner thereof or the parent, spouse, child, or other mem-
15 ber of the immediate family of such owner shall not be con-
16 sidered to be an enterprise engaged in commerce or in the
17 production of goods for commerce or a part of such an en-
18 terprise, and the sales of such establishment shall not be
19 included for the purpose of determining the annual gross
20 volume of sales of any enterprise for the purpose of this
21 subsection.”

22 AGRICULTURAL EMPLOYEES

23 SEC. 103. (a) Section 3 (e) of such Act is amended
24 to read as follows:

25 “(e) ‘Employee’ includes any individual employed by

1 an employer, except that such term shall not, for the pur-
2 poses of section 3 (u) , include—

3 “(1) any individual employed by an employer en-
4 gaged in agriculture if such individual is the parent,
5 spouse, child, or other member of the employer’s imme-
6 diate family, or

7 “(2) any individual who is employed by an em-
8 ployer engaged in agriculture if such individual (A) is
9 employed as a hand harvest laborer and is paid on a
10 piece rate basis in an operation which has been, and is
11 customarily and generally recognized as having been, paid
12 on a piece rate basis in the region of employment, (B)
13 commutes daily from his permanent residence to the
14 farm on which he is so employed, and (C) has been
15 employed in agriculture less than thirteen weeks during
16 the preceding calendar year.”

17 (b) Section 3 of such Act is further amended by add-
18 ing after subsection (t) (added by section 101 (b) of this
19 Act) the following new subsection:

20 “(u) ‘Man-day’ means any day during any portion of
21 which an employee performs any agricultural labor.”

TITLE II--REVISION OF EXEMPTIONS

HOTEL, RESTAURANT, AND RECREATIONAL ESTABLISH-
MENTS; HOSPITALS AND RELATED INSTITUTIONS

SEC. 201. (a) Section 13 (a) (2) of such Act is amended by striking out everything preceding "A 'retail or service establishment'" and inserting in lieu thereof the following:

"(2) any employee employed by any retail or service establishment (except an establishment or employee engaged in laundering, cleaning, or repairing clothing or fabrics or an establishment engaged in the operation of a hospital, institution, or school described in section 3 (s) (4)), if more than 50 per centum of such establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, and such establishment is not in an enterprise described in section 3 (s) or such establishment has an annual dollar volume of sales which is less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated)."

(b) (1) Section 13 (b) of such Act is amended by in-

1 serting after paragraph (7) the following new paragraph
2 in lieu of the paragraph repealed by section 211 of this
3 Act:

4 “(8) any employee employed by an establishment
5 which is a hotel, motel, or restaurant; or”.

6 (2) Section 13 (a) of such Act is amended by inserting
7 after paragraph (2) the following new paragraph in lieu of
8 the paragraph repealed by section 202 of this Act:

9 “(3) any employee employed by an establish-
10 ment which is an amusement or recreational establish-
11 ment, if (A) it does not operate for more than seven
12 months in any calendar year, or (B) during the preced-
13 ing calendar year, its average receipts for any six months
14 of such year were not more than $33\frac{1}{3}$ per centum of its
15 average receipts for the other six months of such year;
16 or”.

17 LAUNDRY AND CLEANING ESTABLISHMENTS

18 SEC. 202. Section 13 (a) (3) of such Act is repealed.

19 AGRICULTURAL EMPLOYEES

20 SEC. 203. (a) Section 13 (a) (6) of such Act is
21 amended to read as follows:

22 “(6) any employee employed in agriculture (A) if
23 such employee is employed by an employer who did not,
24 during any calendar quarter during the preceding
25 calendar year, use more than five hundred man-days

1 of agricultural labor, or (B) if such employee is the
2 parent, spouse, child, or other member of his employer's
3 immediate family; or".

4 (b) Section 13 (a) (16) of such Act (agricultural em-
5 ployees employed in livestock auctions) is repealed.

6 (c) Section 13 (b) of such Act is amended—

7 (A) by striking out the period at the end of para-
8 graph (11) and inserting in lieu thereof “; or”, and

9 (B) by adding at the end of paragraph (11) the
10 following new paragraphs:

11 “(12) any employee employed in agriculture or in
12 connection with the operation or maintenance of ditches,
13 canals, reservoirs, or waterways, not owned or operated
14 for profit, or operated on a sharecrop basis, and which
15 are used exclusively for supply and storing of water for
16 agricultural purposes; or

17 “(13) any employee with respect to his employ-
18 ment in agriculture by a farmer, notwithstanding other
19 employment of such employee in connection with live-
20 stock auction operations in which such farmer is engaged
21 as an adjunct to the raising of livestock, either on his own
22 account or in conjunction with other farmers, if such
23 employee (A) is primarily employed during his work-
24 week in agriculture by such farmer, and (B) is paid for

his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6 (a) (1) ; or”.

AGRICULTURAL PROCESSING EMPLOYEES

SEC. 204. (a) Sections 13 (a) (10) (employees engaged in handling and processing of agricultural, horticultural, and dairy products) ; 13 (a) (17) (country elevator employees) ; 13 (a) (18) (cotton ginning employees) ; and 13 (a) (22) (fruit and vegetable transportation employees) of such Act are repealed.

(b) Section 13 (b) of such Act is amended by adding after paragraph (13) (added by section 203 (c) of this Act) the following new paragraphs:

“(14) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed in the establishment in such operations; or

“(15) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities; or

“(16) any employee engaged (A) in the transpor-

1 tation and preparation for transportation of fruits or
2 vegetables, whether or not performed by the farmer,
3 from the farm to a place of first processing or first mar-
4 keting within the same State, or (B) in transportation,
5 whether or not performed by the farmer, between the
6 farm and any point within the same State of persons
7 employed or to be employed in the harvesting of fruits
8 or vegetables; or”.

9 (c) Subsection (c) of section 7 of such Act is amended
10 to read as follows:

11 “(c) For a period or periods of not more than fourteen
12 workweeks in the aggregate in any calendar year, any em-
13 ployer may employ any employee for a workweek in excess
14 of that specified in subsection (a) without paying the com-
15 pensation for overtime employment prescribed in such sub-
16 section if such employee (1) is employed by such employer
17 in an industry (other than an industry described in subsec-
18 tion (d)) found by the Secretary to be of a seasonal nature,
19 and (2) receives compensation for employment by such
20 employer in excess of ten hours in any workday, or for
21 employment by such employer in excess of forty-eight hours
22 in any workweek, as the case may be, at a rate not less
23 than one and one-half times the regular rate at which he
24 is employed.

1 “(d) For a period or periods of not more than four-
 2 teen workweeks in the aggregate in any calendar year,
 3 any employer may employ any employee for a workweek
 4 in excess of that specified in subsection (a) without paying
 5 the compensation for overtime employment prescribed in
 6 such subsection, if such employee—

7 “(1) is employed by such employer in an enter-
 8 prise which is in an industry found by the Secretary—

9 “(A) to be characterized by marked annually
 10 recurring seasonal peaks of operation at the places
 11 of first marketing or first processing of agricul-
 12 tural or horticultural commodities from farms if
 13 such industry is engaged in the handling, packing,
 14 preparing, storing, first processing, or canning of
 15 any highly perishable agricultural or horticultural
 16 commodities in their raw or natural state, or

17 “(B) to be of a seasonal nature and engaged
 18 in the handling, packing, storing, preparing, first
 19 processing, or canning of any highly perishable
 20 agricultural or horticultural commodities in their
 21 raw or natural state, and

22 “(2) receives compensation for employment by
 23 such employer in excess of ten hours in any workday,
 24 or for employment in excess of forty-eight hours in any

workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.”

(d) (1) Subsections (d), (e), (f), (g), and (h) of section 7 of such Act are redesignated as subsections (e), (f), (g), (h), and (i), respectively.

(2) Subsections (g) and (h) of such section 7 (as so redesignated by paragraph (1) of this subsection) are each amended by striking out “subsection (d)” and inserting in lieu thereof “subsection (e)”.

SMALL NEWSPAPERS

SEC. 205. Section 13 (a) (8) of such Act is amended by striking out “where printed and published” and inserting in lieu thereof “where published”.

TRANSPORTATION COMPANIES

SEC. 206. (a) Section 13 (a) (9) of such Act is repealed.

(b) (1) Section 13 (a) (12) of such Act is repealed.

(2) Section 13 (b) of such Act is amended by adding after paragraph (16) (added by section 204 (b) of this Act) the following new paragraph:

“(17) any driver employed by an employer engaged in the business of operating taxicabs; or”.

1 (c) Section 13 (b) (7) of such Act is amended to read
2 as follows:

3 “(7) any driver, operator, or conductor employed
4 by an employer engaged in the business of operating
5 a street, suburban or interurban electric railway, or
6 local trolley or motorbus carrier, if the rates and services
7 of such railway or carrier are subject to regulation by a
8 State or local agency; or”.

9 MOTION PICTURE THEATER EMPLOYEES

10 SEC. 207. Section 13 (a) of such Act is amended by
11 inserting after paragraph (8) the following new paragraph
12 in lieu of the paragraph repealed by section 206 (a) of this
13 Act:

14 “(9) any employee employed by an establishment
15 which is a motion picture theater; or”.

16 LOGGING CREWS

17 SEC. 208. Section 13 (a) (15) of such Act is amended
18 by striking out “twelve” and inserting in lieu thereof
19 “eight”.

20 AUTOMOBILE, AIRCRAFT, AND FARM IMPLEMENT SALES

21 ESTABLISHMENTS

22 SEC. 209. (a) Section 13 (a) (19) of such Act is re-
23 pealed.

24 (b) Section 13 (b) of such Act is amended by inserting

1 after paragraph (9) the following new paragraph in lieu
2 of the paragraph repealed by section 212 of this Act:

3 “(10) any salesman or mechanic employed by an
4 establishment which is primarily engaged in the busi-
5 ness of selling automobiles or trucks to the ultimate
6 purchaser, any salesman, mechanic, or partsman em-
7 ployed by an establishment which is primarily engaged
8 in the business of selling farm implements to the ultimate
9 purchaser, and any salesman, mechanic, or flight per-
10 sonnel employed by a nonmanufacturing establishment
11 which is primarily engaged in selling aircraft; or”.

12 **FOOD SERVICE EMPLOYEES**

13 **SEC. 210.** (a) Section 13 (a) (20) of such Act is
14 repealed.

15 (b) Section 13 (b) of such Act is amended by adding
16 after paragraph (17) (added by section 206 (b) (2) of this
17 Act) the following new paragraph:

18 “(18) any employee of a retail or service estab-
19 lishment who is employed primarily in connection with
20 the preparation or offering of food or beverages for
21 human consumption, either on the premises, or by such
22 services as catering, banquet, box lunch, or curb or
23 counter service, to the public, to employees, or to mem-
24 bers or guests of members of clubs.”

1 GASOLINE SERVICE STATIONS

2 SEC. 211. Section 13 (b) (8) of such Act is repealed.

3 PETROLEUM DISTRIBUTION EMPLOYEES

4 SEC. 212. (a) Section 13 (b) (10) of such Act is re-
5 pealed.

6 (b) Section 7 (b) (3) of such Act is amended to read
7 as follows:

8 “(3) by an independently owned and controlled
9 local enterprise (including an enterprise with more
10 than one bulk storage establishment) engaged in the
11 wholesale or bulk distribution of petroleum products if—

12 “(A) the annual gross volume of sales of such
13 enterprise is less than \$1,000,000 exclusive of excise
14 taxes,

15 “(B) more than 75 per centum of such enter-
16 prise’s annual dollar volume of sales is made within
17 the State in which such enterprise is located, and

18 “(C) not more than 25 per centum of the
19 annual dollar volume of sales of such enterprise is to
20 customers who are engaged in the bulk distribution
21 of such products for resale,

22 and such employee receives compensation for employ-
23 ment in excess of forty hours in any workweek at a rate
24 not less than one and one-half times the minimum wage
25 rate applicable to him under section 6,”.

1 ENIWETOK AND KWAJALEIN ATOLLS AND JOHNSTON

2 ISLAND

3 SEC. 213. Section 13 (f) of such Act is amended by
4 striking out “and the Canal Zone” and inserting in lieu
5 thereof “Eniwetok Atoll; Kwajalein Atoll; Johnston Is-
6 land; and the Canal Zone”.

7 CONFORMING AMENDMENTS

8 SEC. 214. (a) Section 13 (a) of such Act is amended—

9 (1) by redesignating paragraphs (11), (13),
10 (14), (15), and (21) as paragraphs (10), (11),
11 (12), (13), and (14), respectively, and

12 (2) by striking out “; or” at the end of paragraph
13 (14) (as so redesignated in this subsection) and insert-
14 ing in lieu thereof a period.

15 (b) Paragraph (7) of section 13 (a) of such Act is
16 amended by striking out “or order” and inserting in lieu
17 thereof “, order, or certificate”.

18 TITLE III—INCREASE IN MINIMUM WAGE

19 PRESENTLY COVERED EMPLOYEES

20 SEC. 301. (a) Section 6 (a) of such Act is amended by
21 amending that portion of the section preceding paragraph
22 (2) to read as follows:

23 “(a) Every employer shall pay to each of his employees
24 who in any workweek is engaged in commerce or in the

1 production of goods for commerce, or is employed in an
2 enterprise engaged in commerce or in the production of
3 goods for commerce, wages at the following rates:

4 “(1) not less than \$1.40 an hour during the first
5 year from the effective date of the Fair Labor Stand-
6 ards Amendments of 1966 and not less than \$1.60 an
7 hour thereafter, except as otherwise provided in this
8 section;”.

9 (b) Such section is amended by striking out the pe-
10 riod at the end of paragraph (3) and inserting a semicolon,
11 and by adding the following new paragraph:

12 “(4) if such employee is employed as a seaman
13 on an American vessel, not less than the rate which will
14 provide to the employee, for the period covered by the
15 wage payment, wages equal to compensation at the
16 hourly rate prescribed by paragraph (1) of this sub-
17 section for all hours during such period when he was
18 actually on duty (including periods aboard ship when
19 the employee was on watch or was, at the direction of
20 a superior officer, performing work or standing by, but

1 not including off-duty periods which are provided pur-
2 suant to the employment agreement) ; or”.

3 AGRICULTURAL EMPLOYEES

4 SEC. 302. Section 6 (a) of such Act is amended by
5 adding after paragraph (4) (added by section 301 (b) of
6 this Act) the following new paragraph:

7 “(5) if such employee is employed in agriculture,
8 not less than \$1 an hour during the first year from
9 the effective date of the Fair Labor Standards Amend-
10 ments of 1966, not less than \$1.15 an hour during the
11 second year from such date, and not less than \$1.30 an
12 hour thereafter.”

13 NEWLY COVERED EMPLOYEES

14 SEC. 303. Section 6 (b) of such Act is amended to read
15 as follows:

16 “(b) Every employer shall pay to each of his employees
17 (other than an employee to whom subsection (a) (5) ap-
18 plies) who in any workweek is engaged in commerce or in
19 the production of goods for commerce, or is employed in an
20 enterprise engaged in commerce or in the production of

1 goods for commerce, and who in such workweek is brought
2 within the purview of this section by the amendments made
3 to this Act by the Fair Labor Standards Amendments of
4 1966, wages at the following rates:

5 “(1) not less than \$1 an hour during the first
6 year from the effective date of such amendments,

7 “(2) not less than \$1.15 an hour during the second
8 year from such date,

9 “(3) not less than \$1.30 an hour during the third
10 year from such date,

11 “(4) not less than \$1.45 an hour during the fourth
12 year from such date, and

13 “(5) not less than \$1.60 an hour thereafter.”

14 EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

15 SEC. 304. Section 6 (c) of such Act is amended to read
16 as follows:

17 “(c) (1) The rate or rates provided by subsections (a)
18 and (b) of this section shall be superseded in the case of
19 any employee in Puerto Rico or the Virgin Islands only for
20 so long as and insofar as such employee is covered by a wage
21 order heretofore or hereafter issued by the Secretary pur-
22 suant to the recommendations of a special industry committee
23 appointed pursuant to section 5.

24 “(2) In the case of any such employee who is covered

1 by such a wage order and to whom the rate or rates pre-
2 scribed by subsection (a) would otherwise apply, the fol-
3 lowing rates shall apply:

4 “(A) The rate or rates applicable under the most
5 recent wage order issued by the Secretary prior to the
6 effective date of the Fair Labor Standards Amendments
7 of 1966, increased by 12 per centum. Such rate or rates
8 shall become effective sixty days after the effective date
9 of the Fair Labor Standards Amendments of 1966 or one
10 year from the effective date of the most recent wage
11 order applicable to such employee theretofore issued by
12 the Secretary pursuant to the recommendations of a
13 special industry committee appointed under section 5,
14 whichever is later.

15 “(B) Beginning one year after the applicable
16 effective date under paragraph (A), not less than the
17 rate or rates prescribed by paragraph (A), increased
18 by an amount equal to 16 per centum of the rate or rates
19 applicable under the most recent wage order issued by
20 the Secretary prior to the effective date of the Fair Labor
21 Standards Amendments of 1966.

22 “(3) In the case of any such employee to whom sub-
23 section (a) (5) or subsection (b) would otherwise apply,

1 the Secretary shall within sixty days after the effective date
2 of the Fair Labor Standards Amendments of 1966 appoint a
3 special industry committee in accordance with section 5 to
4 recommend the highest minimum wage rate or rates in ac-
5 cordance with the standards prescribed by section 8, but not
6 in excess of the applicable rate provided by subsection
7 (a) (5) or subsection (b), to be applicable to such em-
8 ployee in lieu of the rate or rates prescribed by subsection
9 (a) (5) or subsection (b), as the case may be. The rate
10 or rates recommended by the special industry committee
11 shall be effective with respect to such employee upon the
12 effective date of the wage order issued pursuant to such rec-
13 ommendation but not before sixty days after the effective
14 date of the Fair Labor Standards Amendments of 1966.”

15 CONTRACT SERVICES TO FEDERAL GOVERNMENT

16 SEC. 305. Section 6 of such Act is amended by adding
17 at the end thereof the following new subsection:

18 “(e) Notwithstanding any other provision of this Act
19 (except section 13 (a) (1)), every employer providing a
20 contract service under a contract with the United States or
21 any subcontract thereunder shall pay to each of his em-
22 ployees wages at rates not less than the rates provided for
23 in subsection (a) (1) of this section.”

1 TITLE IV—APPLICATION OF MAXIMUM HOURS
2 PROVISIONS

3 PRESENTLY AND NEWLY COVERED EMPLOYEES

4 SEC. 401. Section 7 (a) of such Act is amended to read
5 as follows:

6 “(a) (1) Except as otherwise provided in this section,
7 no employer shall employ any of his employees (other than
8 an employee described in paragraph (2) of this subsection)
9 who in any workweek is engaged in commerce or in the
10 production of goods for commerce, or is employed in an
11 enterprise engaged in commerce or in the production of
12 goods for commerce, for a workweek longer than forty
13 hours unless such employee receives compensation for his
14 employment in excess of the hours above specified at a rate
15 not less than one and one-half times the regular rate at
16 which he is employed.

17 “(2) No employer shall employ any of his employees
18 who in any workweek is engaged in commerce or in the
19 production of goods for commerce, or is employed in an
20 enterprise engaged in commerce or in the production of
21 goods for commerce, and who in such workweek is brought
22 within the purview of this subsection by the amendments

1 made to this Act by the Fair Labor Standards Amendments
2 of 1966—

3 “(A) for a workweek longer than forty-four hours
4 during the first year from the effective date of the Fair
5 Labor Standards Amendments of 1966,

6 “(B) for a workweek longer than forty-two hours
7 during the second year from such date, or

8 “(C) for a workweek longer than forty hours after
9 the expiration of the second year from such date,
10 unless such employee receives compensation for his employ-
11 ment in excess of the hours above specified at a rate not less
12 than one and one-half times the regular rate at which he is
13 employed.”

14 COMMISSION SALESMAN

15 SEC. 402. Subsection (i) of section 7 of such Act (as
16 so redesignated by section 204 (d) of this Act) is amended
17 by adding at the end thereof the following new sentence: “In
18 determining the proportion of compensation representing
19 commissions, all earnings resulting from the application of
20 a bona fide commission rate shall be deemed commissions on
21 goods or services without regard to whether the computed
22 commissions exceed the draw or guarantee.”

TITLE V—STUDENTS AND MANAGEMENT

TRAINEES

STUDENTS AND MANAGEMENT TRAINEES

SEC. 501. (a) Section 14 of such Act is amended—

(1) by inserting “(a)” immediately before “The Secretary of Labor”;

(2) by striking out “of messengers” and inserting in lieu thereof “and of messengers”;

(3) by striking out “, and of full-time students outside of their school hours in any retail or service establishment: *Provided*, That such employment is not of the type ordinarily given to a full-time employee”; and

(4) by adding at the end thereof the following new subsections:

“(b) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment of full-time students, regardless of age but in compliance with applicable child labor laws, on a part-time basis in retail or service establishments (not to exceed twenty hours in any work-week) or on a part-time or a full-time basis in such establishments during school vacations, under special certificates

1 issued pursuant to regulations of the Secretary, at a wage rate
2 not less than 85 per centum of the minimum wage applicable
3 under section 6, except that the proportion of student hours
4 of employment to total hours of employment of all employees
5 in any establishment may not exceed (1) such proportion
6 for the corresponding month of the twelve-month period
7 preceding May 1, 1961, (2) in the case of a retail or service
8 establishment whose employees (other than employees
9 engaged in commerce or in the production of goods for com-
10 merce) are covered by this Act for the first time on or after
11 the effective date of the Fair Labor Standards Amend-
12 ments of 1966, such proportion for the corresponding month
13 of the twelve-month period immediately prior to such
14 date, or (3) in the case of a retail or service establishment
15 coming into existence after May 1, 1961, or a retail or service
16 establishment for which records of student hours worked
17 are not available, a proportion of student hours of employ-
18 ment to total hours of employment of all employees based
19 on the practice during the twelve-month period preceding
20 May 1, 1961, in (A) similar establishments of the same
21 employer in the same general metropolitan area in which
22 the new establishment is located, (B) similar establishments
23 of the same employer in the same or nearby counties if the
24 new establishment is not in a metropolitan area, or (C)

1 other establishments of the same general character operating
2 in the community or the nearest comparable community.
3 Before the Secretary may issue a certificate under this sub-
4 section he must find that such employment will not create a
5 substantial probability of reducing the full-time employment
6 opportunities of persons other than those employed under
7 this subsection.

8 “ (c) The Secretary, to the extent necessary in order to
9 prevent curtailment of opportunities for employment, shall
10 by certificate or order provide for the employment of full-
11 time students, regardless of age but in compliance with
12 applicable child labor laws, on a part-time basis in agricul-
13 ture (not to exceed twenty hours in any workweek) or on a
14 part-time or a full-time basis in agriculture during school
15 vacations, at a wage rate not less than 85 per centum of the
16 minimum wage applicable under section 6. Before the Sec-
17 retary may issue a certificate or order under this subsection
18 he must find that such employment will not create a substan-
19 tial probability of reducing the full-time employment oppor-
20 tunities of persons other than those employed under this
21 subsection.

22 “ (d) The Secretary shall by regulation or by order
23 provide that retail or service establishments may employ

1 management trainees, under special certificates issued pur-
2 suant to regulations of the Secretary, without paying such
3 trainees the overtime compensation provided for by section
4 7 for a period which shall not exceed eighteen months, if
5 such trainees are being trained for employment in a bona
6 fide executive or administrative capacity as defined by the
7 Secretary under section 13 (a) (1). In the case of any re-
8 tail or service establishment, no such special certificate shall
9 be in effect—

10 “(1) where there are fifty employees or less in
11 such establishment, with respect to more than one man-
12 agement trainee, or

13 “(2) where there are more than fifty employees
14 in such establishment, with respect to more than a
15 number of such trainees which is equal to 3 per centum
16 of the number of employees in such establishment in
17 excess of 50 (rounded to the next lowest whole num-
18 ber), plus one, or

19 “(3) where such management trainees receive
20 compensation for hours worked over forty in any work-
21 week at a rate less than one and one-half times the
22 minimum wage rate applicable to such employees under
23 section 6, or

24 “(4) where such management trainees are ein-

1 employed for more than forty-eight hours in any work-
2 week.”

3 (b) The center heading for such section 14 is amended
4 to read as follows:

5 “LEARNERS, APPRENTICES, AND HANDICAPPED WORKERS;
6 STUDENTS; AND MANAGEMENT TRAINEES”.

7 TITLE VI STATUTE OF LIMITATIONS; EFFEC-
8 TIVE DATE; AND STUDY

9 STATUTE OF LIMITATIONS

10 SEC. 601. (a) Section 16 (c) of such Act is amended
11 by striking out “two-year statute” and by inserting in lieu
12 thereof “statutes”.

13 (b) Section 6 (a) of the Portal-to-Portal Act of 1947
14 (Public Law 49, Eightieth Congress) is amended by insert-
15 ing before the semicolon at the end thereof the follow-
16 ing: “, except that a cause of action arising out of a willful
17 violation may be commenced within three years after the
18 cause of action accrued”.

19 EFFECTIVE DATE

20 SEC. 602. Except as otherwise provided in this Act, the
21 amendments made by this Act shall take effect on February
22 1, 1967. On and after the date of the enactment of this Act
23 the Secretary is authorized to promulgate necessary rules,

1 regulations, or orders with regard to the amendments made
2 by this Act.

3 **STUDY OF EXCESSIVE OVERTIME**

4 **SEC. 603.** The Secretary of Labor is hereby instructed
5 to commence immediately a complete study of present prac-
6 tices dealing with overtime payments for work in excess
7 of forty hours per week and the extent to which such over-
8 time work impedes the creation of new job opportunities
9 in American industry. The Secretary is further instructed
10 to report to the Congress by July 1, 1967, the findings
11 of such survey with appropriate recommendations.

89TH CONGRESS
2^D SESSION

H. R. 13712

A BILL

To amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

By Mr. DENT

MARCH 16, 1966

Referred to the Committee on Education and Labor

March 17, 1966

pp. 5870-2

13. ADJOURNED until Mon., Mar. 21. p. 5878

HOUSE

14. RESEARCH ANIMALS. A subcommittee of the Agriculture Committee approved for full committee action with amendment H. R. 12488, to authorize the Secretary of Agriculture to regulate the transportation, sale, and handling of dogs, cats, and other animals intended to be used for purposes of research or experimentation. p. D217

15. LABOR STANDARDS. A subcommittee of the Education and Labor Committee approved for full committee action H. R. 13712, amending the Fair Labor Standards Act to extend its protection to additional employees and to raise the minimum wage. p. D218

16. WATER RESEARCH. A subcommittee of the Interior and Insular Affairs Committee approved for full committee action with amendment H. R. 3606, to promote a more adequate national program of water research. p. D218

17. PERSONNEL; CONTRACTS. Received from the Post Office and Civil Service Committee a report entitled, "1965 Report of Statistical Activities of the Federal Government: Personnel, Equipment, and Contract Costs" (H. Rept. 1333). p. 5986

18. ECONOMIC REPORT. Received from the Joint Economic Committee its report on the January 1966 Economic Report of the President (H. Rept. 1334) (p. 5986) Rep. Patman commended the portion of the report "dealing with the maintenance of competition and enforcement of our antitrust laws" (pp. 5883-4)

19. PERSONNEL. The Rules Committee granted an open rule for the consideration of H. R. 10607, to amend the Administrative Expenses Act to provide reimbursement of certain moving expenses of employees. p. D219

20. TARIFF. The Ways and Means Committee voted to report (but did not actually report) the following bills: H. R. 8376, to amend title I of the Tariff Act of 1930 to make permanent the existing duty-free treatment for certain corkboard insulation; H. R. 10998, to continue for a temporary period the existing suspension of duty on heptanoic acid; H. R. 12328, with amendment, to extend for 3 years the period during which certain tanning extracts of hemlock or eucalyptus suitable for use for tanning, may be imported free of duty; H. R. 12461, to continue for a temporary period the existing suspension of duty on certain istle; H. R. 12463, to extend until June 30, 1969, the suspension of duty on crude chicory; H. R. 12864, with amendment, to extend for a temporary period the existing provisions of law relating to the free importation of personal and household effects brought into the U. S. under Government orders. p. D219

21. CORN. Rep. Nelson inserted a number of letters from country elevator operators complaining of the sale of CCC corn at "price-breaking levels" (pp. 5888-9), and defended his criticism of recent "dumping" of corn supplies against the remarks of Secretary Freeman that it was "political noise", and inserted charts and letters on the subject (pp. 5930-31),

Rep. Olson, Minn., expressed concern over CCC sales of corn but stated that he had assurance from this Department "that inventories of corn in Minnesota are sufficient to meet local demand." p. 5901

22. SCHOOL LUNCH; SCHOOL MILK. Rep. Fogarty criticized proposed reductions in the school lunch and milk programs and inserted a supporting article. p. 5907
23. DAIRY PRICES. Rep. Stalbaum and several other Representatives discussed the "urgency for increased price supports for dairy products." pp. 5913-16
24. FLOOD CONTROL. Rep. Edmondson spoke in support of his bill to prohibit certain fees being charged in connection with projects for navigation, and flood control. pp. 5919-21
25. FOREIGN AFFAIRS. Rep. O'Hara inserted the testimony of the executive director of the American Committee on Africa, before the Subcommittee on Africa of the Foreign Affairs Committee, in which he stated that the U. S. should disengage itself from the African economy and that the quota for South African sugar should be eliminated altogether. pp. 5897-01
26. INTEREST RATES. Rep. Patman criticized "tight money policy" and commended and inserted articles supporting his views. pp. 5882-3
Rep. Widnall discussed "indirect breeching of the 4½-percent Government bond interest ceiling" and urged that Congress give it critical examination. p. 5889
27. TRADE STATISTICS. Rep. Langen compared U. S. methods of computing foreign trade costs with that of other countries and stated that it has been revealed that our official foreign trade statistics are deceptive. p. 5902
Rep. Moore stated that he is introducing a joint resolution "calling on the Secretaries of Commerce and Treasury to place trade statistics before us that will reveal rather than conceal our competitive position in the world." p. 5906
28. POVERTY. Reps. Goodell and Gubser criticized administration of the poverty programs. pp. 5889, 5911-2, 5929-30
29. ALLIANCE FOR PROGRESS. Rep. Fascell cited accomplishments under the Alliance for Progress and reaffirmed personal commitment to the continued success of "this great hemispheric experiment in human cooperation." pp. 5907-8
30. EDUCATION. Rep. Green, Ore, inserted messages from educational institutions across the Nation indicating that cuts in the National Defense Education Act loans would seriously handicap our educational process and stated that the Special Subcommittee on Education had adopted a resolution expressing the determination to continue such loans without revision for the next fiscal year. pp. 5892-7
31. WORLD FOOD. Rep. Olsen, Mont., stated that "it is time to take a long, hard look at the restrictions we have imposed on our farmers" in view of the great world food shortage. p. 5941
32. FOREIGN CURRENCIES. Rep. Burleson inserted a report on the expenditures by various committees of foreign currencies and appropriated funds incurred in travel outside the U. S. pp. 5944-85

from Senator Morse; Prof. Louis L. Jaffee, Harvard University; and Dr. Edwin Palmer, chairman of board of trustees, Citizens for Educational Freedom.

Subcommittee recessed subject to call.

HEALTH

Committee on Labor and Public Welfare: Subcommittee on Health continued its hearings on S. 3008, proposed comprehensive health planning and public health services amendments of 1966, having as its witnesses Dr. Bartholomew Hogan, deputy medical director, Ameri-

can Psychiatric Association; Dr. Donald A. Galagan, dean, University of Iowa Dental College, representing the American Dental Association; Dr. Terrell V. Davis, Division of Mental Health and Hospitals of New Jersey, representing the Association of State and Territorial Mental Health Program Director; Dr. Helen B. Tausig, professor of pediatrics, emeritus, the Johns Hopkins University School of Medicine, representing the American Heart Association; and William P. McCracken, Jr., representing the American Optometric Association.

Hearings were adjourned subject to call.

House of Representatives

Chamber Action

Bills Introduced: 53 public bills, H.R. 13740-13792; 11 private bills, H.R. 13793-13803; and 52 resolutions, H.J. Res. 906-956, and H. Con. Res. 618, were introduced.

Pages 5986-5988

Bills Reported: Reports were filed as follows:

H.R. 7423, regarding transfers of Post Office Department appropriations by Postmaster General, amended (H. Rept. 1331);

H.R. 13448, regarding mailing privileges of members of the U.S. Armed Forces and other Federal Government personnel overseas (H. Rept. 1332);

Report of Statistical Activities of the Federal Government: personnel, equipment, and contract costs (H. Rept. 1333);

Joint Economic Report (H. Rept. 1334);

Report on Federal Reserve System—Check Clearance Float (H. Rept. 1335);

H.R. 5533, a private bill, amended (H. Rept. 1336);

H.R. 8219, a private bill, amended (H. Rept. 1337);

H.R. 8833, a private bill, amended (H. Rept. 1338); and

H.R. 10220, a private bill, amended (H. Rept. 1339).

Page 5986

Legislative Program: The legislative program for the week of March 21 to 26 was announced by the majority leader. Agreed to House adjournment from Thursday to Monday.

Pages 5881-5882, 5892

Calendar Wednesday: Agreed to dispense with Calendar Wednesday business of March 23.

Page 5882

Program for Monday: Adjourned at 2:31 p.m. until Monday, March 21, 1966, at 12 o'clock noon when the House will call the Consent Calendar and consider under suspension of the rules the following two bills, H.R. 7423, permitting transfers of Post Office Department appropriations by Postmaster General and H.R. 13448, providing airlift to armed services post offices on a world-wide basis.

Committee Meetings

ADMINISTRATIVE PROBLEMS

Committee on Agriculture: Subcommittee on Departmental Oversight met in open session and continued on administrative problems of local ASC committees. Testimony was heard from Department of Agriculture officials.

DOGS AND CATS

Committee on Agriculture: Subcommittee on Livestock and Feed Grains met in executive session and approved for full committee action H.R. 12488 (amended), to authorize the Secretary of Agriculture to regulate the transportation, sale, and handling of dogs and cats, and other animals intended for purposes of research or experimentation, a clean bill to be introduced.

HOUSING

Committee on Banking and Currency: Subcommittee on Housing continued hearings on H.R. 9256, to amend the National Housing Act to provide mortgage insurance, and authorize direct loans by the Housing and Home Finance Administrator, to help finance the cost of constructing and equipping facilities for the group practice of medicine or dentistry; H.R. 12341, to assist city demonstration programs for rebuilding slum and blighted areas, and for providing the public facilities and services necessary to improve the general welfare of the people who live in these areas; H.R. 12946, to provide incentives to planned metropolitan development and to otherwise assist in urban development; and H.R. 13064, to amend and extend laws relating to housing and urban development. Testimony was heard from public witnesses.

FEDERAL MUTUAL SAVINGS BANKS

Committee on Banking and Currency: Subcommittee on Bank Supervision and Insurance met in executive session on H.R. 11508, to authorize the establishment of

Federal mutual savings banks. No final action was taken. Adjourned subject to call of the Chair.

SCHOOL ASSISTANCE

Committee on Education and Labor: General Subcommittee on Education continued hearings on H.R. 13160 and H.R. 13161, identical bills, to strengthen and improve programs of assistance for our elementary and secondary schools. Testimony was heard from public witnesses.

HIGHER EDUCATION ACT

Committee on Education and Labor: Special Subcommittee on Education met in executive session and continued on H.R. 13174 and H.R. 13237, related bills, to strengthen and improve public and private programs of assistance for institutions of higher education and students attending them. No final action was taken.

Preceding the executive session the committee met in open session and heard testimony from public witnesses.

WAR ON POVERTY

Committee on Education and Labor: Ad Hoc Subcommittee on the War on Poverty Program continued hearings on poverty legislation. Testimony was heard from public witnesses.

FAIR LABOR STANDARDS ACT

Committee on Education and Labor: General Subcommittee on Labor met in executive session and approved for full committee action H.R. 13712, regarding amendments to the Fair Labor Standards Act.

FOREIGN ASSISTANCE ACT

Committee on Foreign Affairs: Continued hearings on H.R. 12449, to amend further the Foreign Assistance Act of 1961; and H.R. 12450, to promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world in their efforts toward internal and external security. Testimony was heard from Dean Rusk, Secretary of State.

NATO BRIEFING

Committee on Foreign Affairs: Subcommittee on Europe met in executive session for a briefing on recent developments in NATO with Charles E. Bohlen, Ambassador to France.

U.S.-SOUTH AFRICA RELATIONS

Committee on Foreign Affairs: Subcommittee on Africa met in open session and continued the discussion on U.S.-South Africa relations. Testimony was heard from public witnesses.

ASIAN POLICY

Committee on Foreign Affairs: Subcommittee on the Far East and the Pacific met in executive session and continued on U.S. policy toward Asia. Testimony was

heard from William P. Bundy, Assistant Secretary of State for Far Eastern Affairs.

WATER RESEARCH

Committee on Interior and Insular Affairs: Subcommittee on Irrigation and Reclamation met in executive session and approved for full committee action H.R. 3606 (amended), to promote a more adequate program of water research.

AUTOMOBILE SAFETY

Committee on Interstate and Foreign Commerce: Continued hearings on H.R. 13228, the Traffic Safety Act of 1966; H.R. 12548, and related bills, regarding the National Traffic Safety Agency; H.R. 414, and related bills, regarding automobile safety; and H.R. 688, and related bills, regarding safety standards for auto tires. Testimony was heard from John T. Connor, Secretary of Commerce. Adjourned subject to call of the Chair.

ANNOUNCEMENT—HEALTH PROFESSIONS PERSONNEL TRAINING

The Committee on Interstate and Foreign Commerce announced that it will conduct public hearings on H.R. 13196, the Allied Health Professions Personnel Training Act of 1966, beginning on Tuesday, March 29, at 10 a.m., in room 2123 Rayburn House Office Building.

STATE TAXATION

Committee on the Judiciary: Special Subcommittee on State Taxation of Interstate Commerce continued hearings on H.R. 11798, the Interstate Taxation Act. Testimony was heard from public witnesses.

NARCOTIC ADDICTION

Committee on the Judiciary: Subcommittee No. 2 met in executive session and approved for full committee action H.R. 9167 (amended), to amend title 18, U.S. Code, to enable the courts to deal more effectively with the problem of narcotic addiction. Also heard testimony on private claims bills.

FOREIGN AGENTS REGISTRATION ACT

Committee on the Judiciary: Subcommittee No. 3 met in executive session on S. 693 and H.R. 290, related bills, to amend the Foreign Agents Registration Act of 1938. No final action was taken.

MERCHANT SHIPPING TO VIETNAM

Committee on Merchant Marine and Fisheries: Subcommittee on Merchant Marine continued hearings on the shipping situation in Vietnam. Testimony was heard from Vice Adm. G. R. Donoho, USN, Commander, Military Sea Transportation Service.

ARMED FORCES MAILING PRIVILEGES

Committee on Post Office and Civil Service: Met in executive session and ordered reported favorably to the House the following bills:

March 21, 1966

Banking and Currency Committee will begin hearings Apr. 19 on the President's 1966 housing proposals. p. 6051

13. ALLIANCE FOR PROGRESS. Sen. Mansfield commended accomplishments under the Alliance for Progress program for Latin America on its fifth anniversary and inserted the President's statement commemorating the occasion. pp. 6064-5
14. FOREIGN AID. Sen. Fong urged increased economic aid to southeast Asia, and commended the President's Honolulu conference with South Vietnamese leaders emphasizing "increased U. S. assistance to South Vietnam in the fields of education, health, agriculture, and economic development." pp. 6087-8
15. WATER RESEARCH. Sen. McGovern inserted the report of the Secretary of the Interior and a statement by Sen. Anderson on water resources research activities. pp. 6095-6101
16. EDUCATION. Sen. Muskie expressed concern over possible effects of proposed budget cuts for Federal aid to schools in federally impacted areas. p. 6065
17. WASTE DISPOSAL. Sen. Ribicoff inserted his address before the Waterbury Conference on Waste Disposal, Waterbury, Conn., "Federal Aspects of Industrial Waste Disposal." pp. 6069-71
18. RECREATION. Sen. Harris inserted an address on the recreation potential in the Arkansas River Basin. pp. 6075-7
19. FARMERS UNION. Sens. Yarborough and McCarthy commended the service of James G. Patton who recently retired as president of the National Farmers Union. pp. 6064, 6091-2
Sen. Montoya commended the election of Tony T. Dechant as new president of the National Farmers Union. p. 6078

HOUSE

20. PERSONNEL. The Rules Committee reported a resolution for the consideration of H. R. 10607, to amend the Administrative Expenses Act to provide reimbursement of additional moving expenses in connection with station transfers. p. 6038
Concurred in Senate amendment to H. R. 1647, to provide for the payment of certain amounts and the restoration of employment benefits to Federal employees improperly deprived thereof by an unjustified or erroneous personnel action. This bill will now be sent to the President. p. 5990
21. LABOR STANDARDS. The Education and Labor Committee voted to report (but did not actually report) with amendment H. R. 13712, to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees and to raise the minimum wage. p. D226
22. ELECTRIFICATION. A subcommittee of the Interior and Insular Affairs Committee approved for full committee action with amendment H. R. 7406, to authorize the construction, operation, and maintenance of a third powerplant at the Grand Coulee Dam, Columbia Basin project, Wash. p. D227
23. CONSUMER INTERESTS. Several Representatives commended the President's message on consumer interests. pp. 5993-4, 5994, 5995, 5995-6, 5996-7

24. TRANSPORTATION. Reps. Pelly and Duncan, Oreg., urged passage of S. 1098, to insure the adequacy of the national railroad freight car supply. pp. 5989, 6015
25. STRIP MINING. Rep. Hechler commended the Governor of W. Va. for his "firm stand to control strip mining" in W. Va. and inserted excerpts from the Governor's speech before the task force on surface mining. pp. 6008-11
26. POVERTY. Several Representatives discussed, and inserted articles discussing, the "successes and shortcomings" of the poverty program. pp. 6022-25, 6032-3
27. UNEMPLOYMENT COMPENSATION. Rep. Pirnie criticized the provisions in H. R. 8282, to establish a program of Federal unemployment adjustment benefits, stating that "it contemplates federalization of a program that has, since its inception, worked effectively through Federal-State cooperation." pp. 6025-6
28. ANIMAL RESEARCH. Rep. Schweiker urged support of his bill, H. R. 13720, "to provide effective protection to dogs and cats while not hindering important research efforts" rather than "the meaningless measures such as the one reported last week to the Agriculture Committee." pp. 6026-7
29. INFLATION. Rep. Dickinson expressed concern over "ever-increasing" inflation and inserted an editorial on the subject. pp. 6027-8
30. HIDE EXPORTS. Rep. Langen stated that the recent "order to control exports of cattle hides...is another round in the admitted policy of this administration to keep farm prices down." p. 6028
31. OPINION POLL. Rep. Langen inserted the results of an opinion poll including items of interest to this Department. p. 6028
32. CONSERVATION. Rep. Matthews paid tribute to the work of the soil and water conservation districts in Florida. p. 6030
33. WILDLIFE. Rep. Sickles called attention to National Wildlife Week, Mar. 20-26 and paid tribute to the National Wildlife Association. pp. 6030-1
34. WATER RESOURCES. Received a report from the President on the Committee on Water Resources Research of the Federal Council for Science and Technology. p. 6037
35. FOREIGN AID. Received from AID its reply to the Comptroller General "relative to his report on unnecessary dollar grants to Iran under the foreign assistance program." p. 6038

ITEMS IN APPENDIX

36. WATER RESOURCES. Sen. Ellender inserted Gov. Burns' speech on the importance to Florida's future the development of water resources. pp. A1581-2
37. SOIL CONSERVATION. Extension of remarks of Rep. O'Neal, Ga., praising the Soil Conservation Service and inserting his statement to the Appropriations Committee urging restoration of proposed reductions. p. A1593
38. ECONOMICS. Extension of remarks of Rep. Buchanan stating that "The need for

ARMY INSTALLATIONS

Committee on Armed Services: Preparedness Investigating Subcommittee met in executive session to discuss a staff report concerning recent inspection visits made to four Army divisions. Committee also discussed other pending matters of business, but made no announcements.

CHINA

Committee on Foreign Relations: Committee continued its hearings with regard to Communist China, having as its witnesses Dr. Donald Zagoria, Columbia University; and Dr. Harold Hinton, George Washington University, who testified with regard to Red China's foreign relations.

On Friday, March 18, committee received testimony from Brig. Gen. Samuel B. Griffith II, U.S. Marine Corps (retired), and Dr. Morton Halperin, Harvard University, who discussed military aspects of Communist China; and Prof. Alexander Eckstein, University of Michigan, who discussed economic aspects of Communist China.

Hearings continue Monday, March 28.

ATLANTIC UNION

Committee on Foreign Relations: Committee announced that its Subcommittee on International Organization Affairs will hold hearings at 10 a.m. on Wednesday and Thursday, March 23 and 24, on S. Res. 128 and S. Con. Res. 64, resolutions relating to a stronger North Atlantic Union.

WEATHER MODIFICATION

Committee on Interior and Insular Affairs: Subcommittee on Water and Power Resources began hearings on S. 2875, authorizing a comprehensive research program

designed to increase the yield of water from atmospheric resources, having as its witnesses Stewart L. Udall, who was accompanied by Dr. Thomas Bates, Science Advisor, and Floyd Dominy, Commissioner of Reclamation, all of the Department of the Interior; J. Herbert Holloman, Assistant Secretary of Commerce; Gordon J. F. McDonald, National Academy of Science Panel on Weather and Climate Modification, accompanied by Dr. Thomas Malone; and A. R. Chamberlain, National Science Foundation Panel on Weather and Climate Modification, accompanied by Dr. Thomas O. Jones, Division of Environmental Sciences.

Hearings continue tomorrow.

PATENTS

Committee on the Judiciary: Subcommittee on Patents, Trademarks, and Copyrights, in executive session, approved for full committee consideration S. 1809, establishing uniform national policy concerning property rights in inventions made under Government contracts (with an amendment in the nature of a substitute bill); and S. 1237, to encourage the creation of original ornamental designs of useful articles by protecting the authors thereof (with amendments).

MINE SAFETY

Committee on Labor and Public Welfare: Subcommittee on Labor held hearings on proposed legislation to promote health and safety in metal and nonmetallic mineral industries (H.R. 8989, S. 2972, S. 996, and S. 3094), having as its witnesses Senator Metcalf; Stewart L. Udall, Secretary, Frank C. Memmott, Bureau of Mines, and Paul Boyajian, all of the Department of the Interior; Dr. Henry N. Doyle, U.S. Public Health Services; Frank Hoffmann, United Steelworkers of America; and A. C. Skinner, International Union of Mine, Mill, & Smelter Workers.

Hearings continue tomorrow.

House of Representatives

Chamber Action

Bills Introduced: 36 public bills, H.R. 13804-13839; 8 private bills, H.R. 13840-13847; and 16 resolutions, H.J. Res. 957-966, and H. Res. 781-786, were introduced.

Pages 6038-6039

Bills Reported: Reports were filed as follows:

Report on missile and space ground support operations, 23d report (H. Rept. 1340);

H. Res. 781, providing for the consideration of and 1 hour of debate on H.R. 10607, to amend the Administrative Expenses Act to provide reimbursement of certain moving expenses of employees (H. Rept. 1341); and S. 518, a private bill, amended (H. Rept. 1342).

Page 6038

Government Employees: House agreed to Senate amendments to H.R. 1647, to provide for the payment of certain amounts and restoration of employment benefits to certain Government officers and employees improperly deprived thereof.

Page 5990

Congressional Employee Benefits: House agreed to Senate amendments to H.R. 10553, to preserve the benefits of the Civil Service Retirement Act, the Federal Employees' Group Life Insurance Act of 1954, and the Federal Employees Health Benefits Act of 1959 for congressional employees receiving certain congressional staff fellowships.

Page 5990

Presidential Message—Consumer Interests: Received a Presidential message regarding consumer interests—

referred to the Committee of the Whole House on the State of the Union and ordered printed as a House Document (H. Doc. 413).

Pages 5990-5993

Consent Calendar: Passed the following bills on the call of the Consent Calendar:

Sent to the Senate without amendment:

Lanham Federal Office Building: H.R. 10284, to name the Fort Worth, Tex., Federal Office Building in honor of the late Fritz Garland Lanham.

Passed over without prejudice:

Utah land title: H.R. 1791, regarding Great Salt Lake lands, Utah.

Page 5997

Suspension Passages: The following bills were called up, considered, and passed under suspension of the rules:

Post Office Appropriations Transfer: H.R. 7423, permitting transfers of Post Office Department appropriations by Postmaster General (amended and passed by a voice vote).

Pages 5998-5999

Armed Services Mailing Privileges: H.R. 13448, to provide the benefits of faster, more efficient, and less expensive mail service to our servicemen and certain civilian employees of the U.S. Government stationed in areas served by Armed Forces post offices outside the 48 contiguous States of the United States (passed by a record vote of 303 yeas).

Pages 5999-6003

Quorum Call and Record Vote: One quorum call and one record vote developed during the proceedings of the House and they appear on pages 5990 and 6002-6003.

Program for Tuesday: Adjourned at 2:13 p.m. until Tuesday, March 22, 1966, at 12 o'clock noon when the House will consider S. 2394, authorizing an official residence for the Vice President (2 hours of debate).

Committee Meetings

WATERSHED PROJECT

Committee on Agriculture: Subcommittee on Conservation and Credit met in executive session and approved for full committee action a watershed project.

Prior to the executive session the subcommittee met in open session and heard testimony from Representatives Burton of Utah and Hansen of Idaho; John A. Baker, Assistant Secretary of Agriculture; Edward P. Cliff, Chief, Forest Service; Hallis Williams, Deputy Administrator for Watersheds, Soil Conservation Service; and Charles H. Stoddard, Director, Bureau of Land Management.

STOCKPILE

Committee on Armed Services: Subcommittee No. 1 held a hearing on stockpile bills. Testimony was heard from John Harlan, Commissioner, Defense Materials Service, GSA; William Lawrence, Office of Emergency Planning; and public witnesses.

HOUSING

Committee on Banking and Currency: Subcommittee on Housing continued hearings on H.R. 9256, to amend the National Housing Act to provide mortgage insurance, and authorize direct loans by the Housing and Home Finance Administrator, to help finance the cost of constructing and equipping facilities for the group practice of medicine or dentistry; H.R. 12341, to assist city demonstration programs for rebuilding slum and blighted areas, and for providing the public facilities and services necessary to improve the general welfare of the people who live in these areas; H.R. 12946, to provide incentives to planned metropolitan development and to otherwise assist in urban development; and H.R. 13064, to amend and extend laws relating to housing and urban development. Testimony was heard from Representative Ryan; Mayor James H. J. Tate of Philadelphia; Mayor John Collins of Boston; and public witnesses.

On Friday, March 18, the Subcommittee on Housing continued hearings on H.R. 9256, H.R. 12341, H.R. 12946, and H.R. 13064, titles above. Testimony was heard from Mayor J. O. Braman of Seattle; and public witnesses.

D.C. OPTOMETRY REGULATIONS

Committee on the District of Columbia: Subcommittee No. 4 held a hearing on H.R. 12937, and related bills, to amend the act of May 28, 1924, to revise existing law relating to the examination, licensure, registration, and regulation of optometrists and the practice of optometry in the District of Columbia. Testimony was heard from public witnesses.

FAIR LABOR STANDARDS ACT

Committee on Education and Labor: Met in executive session and ordered reported favorably to the House H.R. 13712 (amended), to amend the Fair Labor Standards Act of 1938, to extend its protection to additional employees, to raise the minimum wage.

SCHOOL ASSISTANCE

Committee on Education and Labor: On Friday, March 18, the General Subcommittee on Education continued hearings on H.R. 13160, and H.R. 13161, identical bills, to strengthen and improve programs of assistance for our elementary and secondary schools. Testimony was heard from public witnesses.

U.S.-MEXICAN AGREEMENT

Committee on Foreign Affairs: Subcommittee on Inter-American Affairs met in executive session and considered H.R. 7573, and S. 2540, identical bills, to authorize the conclusion of an agreement of an international flood control project for the Tijuana River in accordance with the provisions of the treaty of February 3, 1944, with Mexico.

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

Issued March 30, 1966
For actions of March 29, 1966
89th-2nd; No. 54

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HIGHLIGHTS: see page 7

* HOUSE

1. LABOR STANDARDS. The Education and Labor Committee reported with amendment H. R. 13712, to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees and to raise the minimum wage (H. Rept. 1366) (p. 6777). The bill extends the minimum-wage and overtime provisions to agricultural, logging, and Federal employees, among others. The minimum wage for agricultural employees would begin at \$1 per hour effective Feb. 1, 1967, and gradually increase to \$1.30 effective Feb. 1, 1969. Rep. Dent inserted a summary of the bill (pp. 6770-2).

2. RECLAMATION. The Rules Committee reported a resolution for consideration of H. R. 707, to authorize Interior to construct, operate, and maintain the Tualatin Federal reclamation project, Oreg., and H. R. 2829, to authorize Interior to construct, operate, and maintain the Manson Unit, Chelan division, Chief Joseph Dam project, Wash. p. 6777
3. WATER RESEARCH. The Rules Committee reported a resolution for consideration of H. R. 3606, to promote a more adequate national program of water research. p. 6777
4. SMALL BUSINESS. The Rules Committee reported a resolution for consideration of S. 2729, to increase the ceiling on the Small Business Administration revolving fund. p. 6777
5. WATERSHED. The Agriculture Committee approved the work plan for the Monroe-Annabella, Utah, watershed project. p. 6707
6. SECOND SUPPLEMENTAL APPROPRIATION BILL, 1966. By a vote of 269 to 122, passed as reported this bill, H. R. 14012 (pp. 6708-69). The bill includes funds for this Department as follows: (1) Appropriations for pay costs pursuant to Public Law 89-301 and wage board increases, \$15,841,000 and a transfer of \$64,000, and (2) supplemental appropriations for the Forest Service for fighting forest fires, \$7,500,000. For details of the amounts requested see Digests 29, 30, and 41.
7. EXPORT CONTROLS. Rep. Curtis stated that the Export Control Act, "under which controls had on March 7 been imposed on exports of U. S. hides and other leathers, does not contain proper consultative procedures", and inserted two letters on the subject. pp. 6774-5
8. INFLATION. Rep. Curtis inserted an article, "...Administration Effort to Curb Wages and Prices Seen Facing Difficulties." pp. 6775-6
9. ANIMAL RESEARCH. Rep. Bolton urged support of her bill, H. R. 13346, to authorize this Department to regulate the handling of experimental animals, listed the "weaknesses" of a similar bill reported by the Agriculture Committee, and inserted an article, "Weak Pet Bill." p. 6776
10. FOREIGN AID. Reps. Albert and Boggs commended the President's proposal to establish an Indian-American Foundation "to be financed by \$300 million worth of Indian currencies held by the United States through the sale of surplus agricultural products." pp. 6769, 6769-70
11. LEGISLATIVE PROGRAM. The "Daily Digest" states that on Wed. the House will consider the water research bill. p. D262

FAIR LABOR STANDARDS AMENDMENTS OF 1966

MARCH 29, 1966.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. POWELL, from the Committee on Education and Labor, submitted the following

R E P O R T

[To accompany H.R. 13712]

The Committee on Education and Labor, to whom was referred the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause and inserts in lieu thereof a new text which appears in the reported bill in italic type.

INTRODUCTORY STATEMENT

The Fair Labor Standards Act of 1938 was enacted on June 25, 1938. It is a forerunner to today's war on poverty. The basic policy of that Act is contained in its second section:

FINDING AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5)

interferes with the orderly and fair marketing of goods in commerce.

(b) It is hereby declared to be the policy of this Act, through the exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power.

The bill seeks to implement the policy of the Act by (1) extending the benefits and protection of the Act to an estimated 7,243,000 workers engaged in commerce or in the production of goods for commerce, or employed in enterprises engaged in commerce or in the production of goods for commerce, and (2) providing an increase in the minimum wage.

The bill provides that the minimum wage for those employees presently covered by the Act will be \$1.40 an hour beginning February 1, 1967, and \$1.60 an hour beginning February 1, 1968. The proposed minimum wage for newly covered workers (other than those employed in agriculture) will be \$1 an hour beginning February 1, 1967; \$1.15 an hour beginning February 1, 1968; \$1.30 an hour beginning February 1, 1969; \$1.45 an hour beginning February 1, 1970; and \$1.60 an hour beginning February 1, 1971. For newly covered agricultural workers the bill provides a minimum wage that will be \$1 an hour beginning February 1, 1967; \$1.15 an hour beginning February 1, 1968; and \$1.30 an hour beginning February 1, 1969. Thus, the proposed new wage floors will be reached gradually within 2 years from now for those presently covered by the Act and for certain Federal employees and Federal service contract employees; 5 years for those, other than agricultural workers, who will be newly covered by the Act; and 3 years for newly covered agricultural workers.

The wage increases provided by the bill were geared to considerations of correcting and as rapidly as practicable eliminating labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers without substantially curtailing employment or earning power. It is firmly believed that these gradual increases, approximately equivalent to productivity increases in recent years, can be absorbed by the national economy as easily as all previous increases in the minimum wage.

TABLE I.—*Proposed extension of minimum wage and overtime protection*

Minimum wage protection will be extended to employees in the following:	Overtime protection will be extended to employees in the following:
Retailing, including auto, truck, and farm implement dealerships. Construction. Laundering and drycleaning. Transit and taxicab systems. Restaurants and food service establishments. Logging. Agriculture and agricultural processing. Hotels and motels. Hospitals and related institutions. Federal Government. Federal service contract employees.	Retailing, including auto, truck, and farm implement dealerships (excluding salesmen, mechanics, and partsmen). Construction. Laundering and drycleaning. Transit and taxicab systems (excluding operating employees). Logging. Agricultural processing. Hospitals and related institutions. Gasoline service stations. Federal Government. Federal service contract employees.

TABLE 2.—*Proposed increase in the minimum wage*

Employees	Hourly rate	Effective date
Presently Covered----- (29,600,000)	\$1. 40 1. 60	Feb. 1, 1967 Feb. 1, 1968
Newly Covered (nonfarm)----- (6,093,000)	1. 00 1. 15 1. 30 1. 45 1. 60	Feb. 1, 1967 Feb. 1, 1968 Feb. 1, 1969 Feb. 1, 1970 Feb. 1, 1971
Agriculture----- (485,000)	1. 00 1. 15 1. 30	Feb. 1, 1967 Feb. 1, 1968 Feb. 1, 1969
Federal----- (665,000)	1. 40 1. 60	Feb. 1, 1967 Feb. 1, 1968
Federal Service Contract-----	1. 40 1. 60	Feb. 1, 1967 Feb. 1, 1968

TABLE 3.—*Proposed overtime protection for newly covered employees (excluding agricultural employees)*

A newly covered employee must receive compensation at a rate not less than 1½ times the regular rate at which he is employed for hours of employment in excess of—	Effective date
44 hours in any workweek.....	Feb. 1, 1967
42 hours in any workweek.....	Feb. 1, 1968
40 hours in any workweek.....	Feb. 1, 1969

SUBCOMMITTEE CONSIDERATION

The General Subcommittee on Labor began public hearings on the Fair Labor Standards Amendments of 1965 on May 25, 1965. Hearings were concluded on July 21, 1965, after 25 days of hearings during which testimony was received from 97 witnesses, including the Honorable W. Willard Wirtz, Secretary of Labor, and other witnesses from government, labor, industry, and other interested groups. In addition, more than 100 statements were submitted for the official hearing record.

In its executive sessions last year, the subcommittee also considered the testimony received from 78 witnesses during approximately 5 months of hearings held in 1963 and 1964 on proposed amendments to the Act.

On August 4, 1965, the subcommittee concluded 6 days of consideration in executive session and reported a bill to the full committee. On August 25, 1965, the Committee on Education and Labor reported the Fair Labor Standards Amendments of 1965 (H.R. 10518).

Reconsideration of the aforementioned amendments began early in 1966 by the General Subcommittee on Labor. Several changes were embodied in a new bill (H.R. 13712) which was introduced on March 16, 1966, and reported by the subcommittee the following day. On March 21, 1966, the Committee on Education and Labor ordered reported favorably that bill (the Fair Labor Standards Amendments of 1966) with an amendment. The committee amendment is in the form of a new text. The discussion and analysis that follows is a discussion and analysis of the committee amendment, and all references to the bill are references to the committee amendment.

HISTORY OF THE ACT

On June 25, 1938, one of the Nation's basic labor laws was enacted—the Fair Labor Standards Act of 1938. The first statutory minimum wage was established at 25 cents an hour for the year beginning October 24, 1938. It was made applicable to all employees, not specifically exempted, who were engaged in commerce or in the production of goods for commerce.

The original Act provided that the statutory minimum wage would be raised to 30 cents an hour beginning October 24, 1939. A procedure was established for raising the minimum wage by stages to a level of 40 cents an hour, industry by industry, as rapidly as possible; but, in any case, 40 cents an hour was to become the national minimum wage

within 7 years after the effective date of the Act, that is, by October 24, 1945.

During the interval, intermediate minimum wages were applied to different industries on recommendation of industry committees. The last order of the Wage and Hour Administrator raising the minimum wage to 40 cents an hour was issued in July, 1944, 1 year before the date set by the Act for the 40 cents an hour minimum wage rate to become applicable.

The Act also established an overtime rate (not less than $1\frac{1}{2}$ times the employee's regular hourly rate) which was to be paid employees for employment in excess of certain maximum hours in a workweek. Thus, during the first year of the Act, that is, from October 24, 1938, to October 23, 1939, a maximum hours standard of 44 hours a week was applied to covered employees; during the second year, 42 hours became the standard; and after 2 years, the standard was reduced to 40 hours a week. The time-and-one-half penalty overtime rate has never been altered, although amendments were passed in subsequent years increasing the statutory minimum wage and extending coverage to unprotected workers.

The Fair Labor Standards Amendments of 1949 increased the minimum hourly wage rate from 40 cents to 75 cents (to take effect January 25, 1950), representing an $87\frac{1}{2}$ -percent raise. The Fair Labor Standards Amendments of 1955 provided another increase in the minimum hourly wage rate which brought that wage rate to \$1 an hour effective March 1, 1956, representing a $33\frac{1}{3}$ -percent increase.

The Fair Labor Standards Amendments of 1961 raised the minimum hourly wage rate by 25 percent to \$1.25, effective on September 3, 1963. An intermediate increase to \$1.15 an hour was provided effective September 3, 1961. Employees covered by the Act for the first time because of the changes made in the Act by the 1961 amendments, which revised the exemptions and extended the Act's coverage, received a minimum wage of not less than \$1 an hour beginning September 3, 1961; \$1.15 an hour beginning September 3, 1964; and \$1.25 an hour beginning September 3, 1965. Employees brought within the coverage of the Act by the 1961 amendments received overtime protection beginning September 3, 1963, for hours worked in excess of 44 in any workweek. Effective September 3, 1964, the overtime protection of the Act was extended to such employees for hours worked in excess of 42 in any workweek, and effective September 3, 1965, for hours worked in excess of 40 in any workweek.

Prior to the 1961 amendments, coverage under the Act was limited to individual employees who were themselves engaged in commerce or in the production of goods for commerce or in any closely related process or occupation directly essential to production. The 1961 amendments enlarged the scope of the Act by adding another basis of coverage—employment in an "enterprise engaged in commerce or in the production of goods for commerce." Under this basis of coverage the minimum wage and overtime protection of the Act was extended to each and every employee of such an enterprise, unless specifically exempted.

With reference to the objectives of the Act, the Supreme Court, speaking through Mr. Justice Burton, has observed:

In this Act, the primary purpose of Congress was not to regulate interstate commerce as such. It was to eliminate,

as rapidly as practicable, substandard labor conditions throughout the Nation. It sought to raise living standards without substantially curtailing employment or earning power. * * *

The Act declared its purposes in bold and sweeping terms. Breadth of coverage was vital to its mission. Its scope was stated in terms of substantial universality * * * (*Powell v. United States Cartridge Co.*, 339 U.S. 497 at 509-510, 516 (1950)).

In contrast with the broad objectives of the Act its present coverage is much more confined in scope.

The Act was a response to call upon a Nation's conscience, at a time when the challenge to our democracy was the tens of millions of citizens who were denied the greater part of what the very lowest standards of the day called the necessities of life; when millions of families in the midst of a great depression were trying to live on income so meager that the pall of family disaster hung over them day by day; when millions were denied education, recreation, and the opportunity to better their lot and the lot of their children; when millions lacked the means to buy the products of farm and factory and by their poverty denied work and productiveness to many other millions; and when one-third of a nation was ill housed, ill clad, and ill nourished.

On May 24, 1937, in a message to the Congress, President Franklin D. Roosevelt, stated that—

Our Nation so richly endowed with natural resources and with a capable and industrious population should be able to devise ways and means of insuring to all our able-bodied working men and women a fair day's pay for a fair day's work. A self-supporting and self-respecting democracy can plead no justification for the existence of child labor, no economic reason for chiseling workers' wages or stretching workers' hours.

Enlightened business is learning that competition ought not to cause bad social consequences which inevitably react upon the profits of business itself. All but the hopelessly reactionary will agree that to conserve our primary resources of manpower, Government must have some control over maximum hours, minimum wages, the evil of child labor, and the exploitation of unorganized labor.

And so to protect the fundamental interests of free labor and a free people we propose that only goods which have been produced under conditions which meet the minimum standards of free labor shall be admitted to interstate commerce. Goods produced under conditions which do not meet rudimentary standards of decency should be regarded as contraband and ought not to be allowed to pollute the channels of interstate trade.

On October 26, 1949, upon the occasion of the signing of the Fair Labor Standards Amendments of 1949, President Harry S. Truman stated:

This Act has proved to be wise and progressive remedial legislation for the welfare not only of our wage earners but of our whole economy.

On April 21, 1960, while appearing before the Subcommittee on Labor Standards of the Committee on Education and Labor, House of Representatives, the Honorable James P. Mitchell, Secretary of Labor, cited President Dwight D. Eisenhower's continuing support for this basic legislation. Secretary Mitchell stated:

In his first economic report issued in January 1954, President Eisenhower said that "an effective minimum wage program should cover millions of low-paid workers now exempted."

In his 1955 report, the President indicated that "the coverage of the minimum wage is no less important than its amount."

In 1956, he stated that "the need for an extension of coverage remains, and the Congress is again requested to proceed as far as is practical in this direction."

This request was repeated in 1957, 1958, and 1959, and in his last report the President reiterated that "the Congress is again requested to extend coverage of the Fair Labor Standards Act to several million workers not now receiving its protection."

In a special message to the Congress on February 2, 1961, President John F. Kennedy recommended a minimum wage increase and expanded coverage of the Fair Labor Standards Act of 1938. President Kennedy declared:

This will improve the incomes, level of living, morale, and efficiency of many of our lowest paid workers, and provide incentives for their more productive utilization. This can actually increase productivity and hold down unit costs, with no adverse effects on our competition in world markets and our balance of payments.

Now in its third decade the Act has meant much to many—greater dignity and security and economic freedom for millions of American workers, and an upswing in economic growth for the country as a whole.

However, as the President of the United States, Lyndon B. Johnson, stated in his message to the Congress of May 18, 1965:

Many American workers whose employment is clearly within the reach of this law have never enjoyed its benefits. Unfortunately, these workers are generally in the lowest wage groups and most in need of wage and hour protection. We must extend minimum wage and overtime protection to them.

It is the committee's intention to extend the Act's coverage in such a manner as to completely assume the Federal responsibility insofar as is presently practicable and to raise the minimum wage to a level which will prevent the disgraceful and intolerable situation of workers and their families dwelling in poverty.

THE PRESENT ACT

At the present time half of the Nation's wage and salary workers are outside the coverage of the Act. The law presently covers only 29.6 million of the 60 million wage and salary workers in the United

States. A large number of these 60 million are beyond the scope of of the Act's practical, possible, or needed coverage. But of the 47 million workers in private industry who might be brought within the coverage of the wage and hour guarantees, 17½ million are not in fact covered.

TABLE 4.—*Estimated number of nonsupervisory employees covered under the Fair Labor Standards Act of 1938, by industry*

[In thousands]

Industry	Total number of employees in private industry	Number of employees covered	Number of employees not covered or exempt
Agriculture and fisheries-----	1, 882	-----	1, 882
Mining-----	559	554	5
Contract construction-----	3, 029	2, 413	616
Manufacturing-----	15, 851	15, 207	644
Transportation, communications utilities-----	3, 664	3, 474	190
Wholesale trade-----	3, 015	2, 092	923
Retail trade-----	7, 988	2, 593	5, 395
Finance, insurance, real estate--	2, 515	1, 869	646
Services (excluding domestic service)-----	6, 253	1, 391	4, 862
Domestic service-----	2, 504	-----	2, 504
Total-----	47, 260	29, 593	17, 667

There is good reason for noncoverage of some of these 17½ million workers who have not been brought within the protection of the Act. Some are in occupations where virtually all wage rates are already higher than any practical minimum wage level. And still others are engaged in occupations which are intrastate in character, and apparently do not affect interstate commerce.

The Act covers any employee who is not specifically exempted, who in any workweek is engaged in commerce or in the production of goods for commerce, inclusive of employees engaged in work "closely related" and "directly essential" to such production, and every employee who in any workweek is employed in an enterprise engaged in commerce or in the production of goods for commerce.

The Act, therefore, has two bases of coverage. It applies to employees, not specifically exempt, who are—

(1) Engaged in commerce or in the production of goods for commerce. The term "commerce" is defined to include both incoming and outgoing foreign commerce, as well as commerce between the States. The term "production" of goods includes not only the actual production operations, but also "any closely related process or occupation directly essential" to such production. The term "goods" includes any part or ingredient thereof, or

(2) Employed in "an enterprise engaged in commerce or the production of goods for commerce." In general, the definition of such an enterprise (in sec. 3(s) of the Act) is based on annual dollar volumes of business and types of businesses. Under this category of coverage all the employees of such an enterprise will be covered by the Act, regardless of the relationship of their individual duties to commerce or the production of goods for commerce. Where a business does not fit into the definition of such an enterprise, certain individual employees of such business may, nonetheless, be covered if they qualify under the test of coverage established in 1938.

An "enterprise" is presently defined as—

the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor.

Related activities conducted by separate business entities will be considered a part of the same enterprise where they are joined either through unified operation or common control into a unified business system or economic unit to serve a common business purpose. Activities are considered related when they are the same or similar, such as those of the individual retail or service store in a chain, or departments of an establishment operated through leasing arrangements; when they are auxiliary and service activities, such as central office and warehousing activities and bookkeeping, auditing, purchasing, advertising, and other services; and when they are part of a vertical structure, such as the manufacturing, warehousing, and retailing of a particular product or products under unified operation or common control for a common business purpose.

Those businesses which are unrelated to each other are separate enterprises. For example, if a single company owns several retail apparel stores and is also engaged in the lumbering business, the sales of the lumbering business would not be included in the annual dollar volume of the retail apparel stores in determining whether the dollar-volume test under section 3(s) has been met.

Related, even if somewhat different, business activities can, however, frequently be part of the same enterprise. For example, a bank may, either directly or indirectly, engage in real estate and leasing activities incidental to or arising from its financial and investment activities. These activities, having a reasonable connection with banking, would be considered related.

Also, the operations through substantial ownership or control of a number of firms engaged in similar types of business activities constitute, in the committee's view, related activities performed through unified operations or common control within the meaning of the definition of enterprise. The fact that the firms are independently incorporated or physically separate or under the immediate direction of local management, as in *Wirtz v. Hardin*, 16 Wage Hour Cases 722 (N.D. Ala.), is not determinative of this question.

However, an independently owned retail or service establishment will not lose its status as a separate and distinct entity because it occupies premises leased to it by a person who also leases premises to other retail or service establishments, or by reason of an arrangement which includes an agreement that it (1) will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser; (2) will join with other such establishments in the same industry for the purpose of collective purchasing; or (3) will have the exclusive right to sell the goods or to use the brand name of a manufacturer, distributor, or advertiser within a specified time.

In keeping with the broad statutory definitions of the coverage phrases used, the courts have repeatedly expressed and adhered to the principle that the coverage phrases should receive a liberal interpretation, consonant with the definitions, with the purpose of the Act, and with its character as remedial and humanitarian legislation.

However, despite the Act's broad coverage terms and the courts' liberal interpretations regarding coverage and restrictive interpretations regarding exemptions, there is great need for extending the present coverage of the Act to large groups of workers whose earnings today are unjustifiably and disproportionately low. There is a significant correlation between poverty earnings and exclusion from the protective provisions of the Act. Among family heads employed in industries generally covered by the Act, only 5 to 10 percent had annual incomes under \$3,000 in 1963. The figure is 8 to 14 percent in industries where there is partial coverage of the Act. But in industries where there is little or no coverage, the proportions jumped to 33 and 49 percent, respectively.

Also, it is imperative, if the Act is to have real meaning, that the minimum wage provide earnings above the poverty level. It is a shocking fact that demands immediate remedy that 40 percent of all children living in poverty were in families where there was a worker who had a full-time job throughout the year. Full employment, and equal employment opportunity, are now widely endorsed objectives, but to be employed equally at substandard wages is no social achievement at all. The "minimum standard of living necessary for health, efficiency, and general well-being of workers" must be attained.

The Act was a commitment to improve living standards by eliminating substandard working conditions in employment, subject to the Federal jurisdiction over interstate commerce. That commitment, incomplete when it was made, has become less complete with the passage of years. The law has not been kept in line with the advancing economy and some of its guarantees mean less comparatively than they did 28 years ago. The Fair Labor Standards Amendments of 1966 are intended to rectify this situation with all deliberate speed consistent with the policy of the Act and the welfare of the American people.

BRIEF SUMMARY OF PROVISIONS

Title I—Definitions

Section 101. *Tips*.—Provides that the wage paid by an employer to a tipped employee shall be deemed to be increased on account of tips by an amount determined by the employer, but such amount shall not exceed 35 percent of the applicable minimum wage rate during the first 2 years from the effective date of the Fair Labor Standards Amendments of 1966, 40 percent during the third and

fourth years, and 45 percent thereafter. Directs the institution of a procedure for reconsideration of the amount attributed as tips upon appeal by the employee.

Defines "tipped employee" as an employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips.

Section 102. *Definition of enterprise.*—Amends definition of "enterprise" and "employer" to include public and private, proprietary and nonproprietary hospitals (excluding Federal Government hospitals) and related institutions and, also, institutions of higher education regardless of whether or not such institutions are public or private or operated for profit or not for profit. Further amends definition of "enterprise" and "employer" to include public and private transit systems.

Also amends the definition of an "enterprise engaged in commerce or in the production of goods for commerce" to include an enterprise which has employees engaged in commerce or in the production of goods for commerce and which (1) during the period February 1, 1967, through January 31, 1969, has an annual gross volume of sales of not less than \$500,000, or is a gasoline service establishment with an annual gross volume of sales of not less than \$250,000, (2) beginning February 1, 1969, has an annual gross volume of sales of not less than \$250,000, (3) is a laundry or drycleaning enterprise or a construction enterprise, or (4) is a hospital, nursing home, institution of higher education, or other related institution (regardless of whether or not such hospital, institution or school is public or private or operated for profit or not for profit). There is no dollar volume test for the following types of enterprises: laundries, drycleaning, construction, educational, or hospital, nursing home, and similar institutions. "Mom and pop" establishments remain excluded. Individual retail or service establishments meeting the percentage tests in section 13(a)(2) and with annual sales of less than \$250,000 remain excluded under section 13(a)(2) of the Act.

Section 103. *Agricultural employees.*—Excludes from definition of employee, for the purpose of computing "man-days" of agricultural labor, "the parent, spouse, child, or other member of the agricultural employer's immediate family," and "any individual who is employed by an employer engaged in agriculture if such individual (a) is employed as a hand harvest laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment, (b) commutes daily from his permanent residence to the farm on which he is so employed, and (c) has been employed in agriculture less than 13 weeks during the preceding calendar year." Defines "man-day" to mean any day during which an employee performs agricultural labor for the employer.

Title II—Revision of exemptions

Section 201. *Hotel, restaurant, and recreational establishments; hospitals and related institutions.*—Repeals the minimum wage exemptions for such establishments (except seasonal recreational and amusement establishments). Maintains overtime exemptions for such establishments (except hospitals and related institutions).

Exempts any employee employed by any retail or service establishment (but not employees of laundries or drycleaning establishments

or employees of hospitals and related institutions) which are doing less than \$250,000 of business annually.

Section 202. *Laundry and drycleaning establishments*.—Repeals minimum wage and overtime exemptions.

Section 203. *Agricultural employees*.—Amends minimum wage exemption to retain such exemption for agricultural employees employed by an employer who did not, during any calendar quarter of the preceding calendar year, use more than 500 man-days of agricultural labor. Members of the employer's immediate family are also exempt from the minimum wage. Maintains overtime exemption for agricultural employees, including livestock auctioneers.

Section 204. *Agricultural processing employees*.—Repeals minimum wage and overtime exemption for agricultural processing employees in the "area of production", repeals minimum wage but maintains overtime exemption for employees of country elevators located in "area of production," repeals minimum wage but maintains overtime exemption for cotton ginning employees, and repeals minimum wage but maintains overtime exemption for certain fruit and vegetable transportation employees.

Amends 14-week overtime exemption for seasonal industries (other than agricultural processing) to require compensation for hours of employment in excess of 10 in any workday or in excess of 48 in any workweek at not less than $1\frac{1}{2}$ times the regular rate.

Amends exemptions applicable to agricultural processing to provide for a single 14-week overtime exemption for processing of highly perishable agricultural or horticultural commodities in their raw or natural state, but the exemption requires compensation for hours worked in excess of 10 in any workday or in excess of 48 in any workweek at not less than $1\frac{1}{2}$ times the regular rate of pay for such employees. Only one 14-week overtime exemption for a calendar year may now apply to any employer.

Section 205. *Small newspapers*.—Provides minimum wage and overtime exemption for employees of such newspapers published in the county of major circulation.

Section 206. *Transportation companies*.—Repeals minimum wage exemption but provides overtime exemption for operating employees of transit and taxicab companies.

Section 207. *Motion picture theater employees*.—Retains minimum wage and overtime exemption.

Section 208. *Logging crews*.—Reduces minimum wage and overtime exemption criteria from a 12-man crew to an 8-man crew.

Section 209. *Automobile, aircraft, and farm implement sales establishments*.—Repeals minimum wage and overtime exemption for all employees in automobile and farm implement sales establishments and provides a new overtime exemption for salesmen, mechanics, and partsmen in such establishments and for salesmen, mechanics, and flight personnel in aircraft sales establishments.

Section 210. *Food service employees*.—Repeals minimum wage but maintains overtime exemption.

Section 211. *Gasoline service stations*.—Repeals overtime exemption.

Section 212. *Petroleum distribution employees*.—Amends overtime exemption to provide an overtime exemption for employment up to 12 hours in any workday and up to 56 hours in any workweek for independently owned bulk petroleum distributors doing less than \$1 million of business annually if more than 75 percent of sales is made

intrastate, not more than 25 percent of the distributor's customers purchase for resale, and compensation for hours between 40 and 56 in any workweek is not less than $1\frac{1}{2}$ times the applicable minimum wage.

Section. 213. *Eniwetok and Kwajalein Atolls and Johnston Island.*—Extends jurisdiction of Act.

Section 214. *Technical and conforming amendments.*

Title III—Increases in minimum wage

Section 301. *Presently covered employees.*—Raises minimum wage for employees covered prior to enactment of 1966 amendments to not less than \$1.40 an hour beginning February 1, 1967, and not less than \$1.60 an hour beginning February 1, 1968.

Section 302. *Agricultural employees.*—Provides a minimum wage for newly covered agricultural employees of not less than \$1 an hour beginning February 1, 1967; not less than \$1.15 an hour beginning February 1, 1968; and not less than \$1.30 an hour beginning February 1, 1969.

Section 303. *Newly covered employees.*—Provides a minimum wage for employees covered by the Act for the first time by the 1966 amendments (other than newly covered agricultural employees) at not less than \$1 an hour beginning February 1, 1967; not less than \$1.15 an hour beginning February 1, 1968; not less than \$1.30 an hour beginning February 1, 1969; not less than \$1.45 an hour beginning February 1, 1970; and not less than \$1.60 an hour beginning February 1, 1971.

Section 304. *Employees in Puerto Rico and the Virgin Islands.*—Provides for a percent minimum wage increase for employees in Puerto Rico and the Virgin Islands who are covered by wage orders presently in effect, which is the equivalent of the percent increase on the mainland. Provides for minimum wages for employees brought within coverage of the Act for the first time by the 1966 amendments at rates to be set by special industry committees so as "to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed" for newly covered mainland employees. Eliminates the review committees established by the 1961 amendments.

Section 305. *Contract services for Federal Government.*—Every employer providing a contract service for the United States shall pay to his employees the minimum wage provided in section 6(a)(1).

Section 306. *Federal employees.*—Establishes minimum wage and overtime coverage for certain Federal wage board employees and employees in nonappropriated fund instrumentalities under the jurisdiction of the Armed Forces.

Title IV—Application of maximum hours provision

Section 401. *Presently and newly covered employees.*—Maintains provision for 40-hour workweek and compensation for employment in excess of 40 hours at not less than $1\frac{1}{2}$ times the regular rate of pay. For employees covered by the overtime provision for the first time by the 1966 amendments the workweek is phased in beginning at 44 hours during the year beginning February 1, 1967; at 42 hours during the year beginning February 1, 1968; and at 40 hours after February 1, 1969.

Section 402. *Commission salesmen.*—Provides that in the application of a bona fide commission rate, "commissions" shall be deemed

commissions without regard to whether they exceed the draw or guarantee.

Title V—Students and management trainees

Section 501. *Students and management trainees.*—Amends full-time student provision to provide for the employment of full-time students regardless of age (but in compliance with the applicable child labor laws) outside of their school hours in retail or service establishments or in agriculture at not less than 85 percent of the minimum wage in full-time positions during school vacations or in part-time positions not to exceed 20 hours in any workweek under certificates issued by the Secretary.

Limits number of students to be hired at subminimum wages in retail or service establishments to the proportion of hours of student employment to total employment in the establishment or similar establishments prior to the 1961 amendments.

Provides an overtime exemption for the employment of management trainees in retail or service establishments limited to 18 months per trainee if such training is for an administrative or executive position and the trainee receives not less than 1½ times the applicable minimum wage for hours worked in excess of 40 in any workweek and the trainee is not employed for more than 48 hours in any workweek.

A limitation of 1 trainee to an establishment with 50 or fewer employees or a number of trainees equal to a maximum of 3 percent of the total number of employees in an establishment with more than 50 employees is provided.

Further provides that no employer shall be required to pay in excess of 75 percent of the applicable minimum wage to any employee under the age of 21 years during the first 6 weeks of full-time employment of such employee's employment career.

Title VI—Statute of limitations and effective date

Section 601. *Statute of limitations.*—Maintains 2-year statute of limitations, except in the case of a willful violation where a 3-year statute of limitations is provided.

Section 602. *Effective date.*—The amendments made by this Act shall take effect on February 1, 1967. On and after the date of the enactment of this Act the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

Section 603. *Study of excessive overtime.*—The Secretary is instructed to study present practices dealing with overtime work and to report to the Congress by July 1, 1967.

COMMENTS ON MAJOR PROVISIONS

The bill would extend the coverage of the Fair Labor Standards Act to approximately 7.2 million additional workers. This is accomplished without departing from the Act's basic coverage concepts: employment in "commerce" or in the "production of goods for commerce." Employees individually engaged in "commerce" or in the "production of goods for commerce," unless specifically exempted, would continue to enjoy the protection of the Act. The additional coverage has been secured through two primary approaches. First, certain definitions, most importantly, "enterprise engaged in commerce or in the production of goods for commerce," have been rede-

financed to extend coverage. Second, several exemptions in the present law have been repealed so as to narrow the Act's exclusions.

TABLE 5.—*Estimated distribution of nonsupervisory employees who would be brought under minimum wage protection of the Act in 1967 and 1969 by the bill*¹

[In thousands]

Industry	Employees added to minimum wage coverage			Total employees subject to minimum wage provisions
	1967	1969	Total	
Retail trade.....	1, 155	345	1, 500	4, 086
Restaurants.....	300	125	425	432
Hotels and motels.....	240	35	275	275
Hospitals and related institutions.....	1, 471	-----	1, 471	1, 471
Miscellaneous services.....	20	30	50	349
Laundries.....	505	-----	505	523
Agriculture.....	485	-----	485	485
Transit systems.....	60	5	65	65
Agriculture in area of production.....	90	-----	90	90
Taxicabs.....	75	25	100	100
Logging.....	37	-----	37	37
Cotton ginning.....	34	-----	34	34
Construction.....	581	-----	581	2, 994
Federal Government.....	665	-----	665	665
All other industries.....	570	390	960	25, 230
Total.....	6, 288	955	7, 243	36, 836

¹ Based on estimated employment in 1964.

NOTE.—These estimates do not reflect coverage of employees of employers providing contract services for the United States.

Enterprise

Section 3(s) of the Act presently provides that an enterprise will be considered to be engaged in commerce or in the production of goods for commerce if it has employees engaged in such activities, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce if (1) it is a million dollar retail or service enterprise; (2) it is a million dollar local transit enterprise; (3) it is an establishment of any other million dollar enterprise; (4) it is engaged in construction or reconstruction, or both, with an annual business volume of not less than \$350,000; or (5) it is a gasoline service establishment with sales of not less than \$250,000. There is a proviso that if the only employees of an establishment are the owner or his parent, spouse, or child, such establishments will not be considered a covered enterprise, nor will its volume of business be included in the sales volume of any enterprise.

“Enterprise engaged in commerce or in the production of goods for commerce” is amended to mean an enterprise which has employees engaged in commerce or in the production of goods for commerce, which shall include employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce, if—

(1) During the period February 1, 1967, through January 31, 1969, such enterprise has an annual gross volume of sales made or business done of not less than \$500,000, or is a gasoline service establishment with an annual gross volume of sales of not less than \$250,000;

(2) During the period commencing February 1, 1969, such enterprise has an annual gross volume of sales made or business done of not less than \$250,000;

(3) Such enterprise is engaged in laundering or cleaning services;

(4) Such enterprise is engaged in construction or reconstruction; or

(5) Such enterprise is a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally handicapped or gifted children, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit).

Section 201 of the bill provides that an employee of any retail or service establishment (regardless of whether such establishment is in any such enterprise) which has an annual gross volume of business of less than \$250,000 is exempted from coverage by the Act.

If the only regular employees of an establishment are its owner, or his parent, spouse, child, or other immediate member of his family, such establishment will not be considered an enterprise engaged in commerce or in the production of goods for commerce, and the sales of such establishment will not be included in the computation of sales of any enterprise.

The enormous importance of this change in section 3(s) of the Act can be most vividly seen by noting the impact of the change in the dollar-volume test from \$1 million to \$500,000 on February 1, 1967. By this half a million dollar decrease in the dollar-volume requirement, 2,420,000 employees will be added to minimum wage coverage. The further reduction of the dollar-volume test from \$500,000 to \$250,000 in 1969 results in minimum wage coverage being extended to an additional 955,000 employees.

In addition to the amendment to section 3(s) of the Act, section 3(r), which defines “enterprise,” is amended so as to bring under the coverage of the Act employees of hospitals and related institutions, schools for mentally handicapped or gifted children, or institutions of higher education, regardless of whether any of these hospitals, schools, or institutions are public or private or operated for profit or not for profit. Section 3(r) of the Act is further amended to cover employees of street, suburban or interurban electric railways, or local trolley or motorbus carriers, if the rates and services of these railways or carriers are subject to regulation by a State or local agency, regardless of whether or not such railways or carriers are public or private or operated for profit or not for profit. These enterprises which are not proprietary, that is, not operated for profit, are engaged in

activities which are in substantial competition with similar activities carried on by enterprises organized for a business purpose. Failure to cover all activities of these enterprises will result in the failure to implement one of the basic purposes of the Act, the elimination of conditions which "constitute an unfair method of competition in commerce." Since Federal Government hospitals have wages at levels which are at or above the present minimum wage level, and the committee can be assured that such wage levels will not fall below the statutory minimum, the extension of coverage provided by this bill does not include the employees of such hospitals (except as provided in section 306 of the bill). Even outweighing the consideration of unfair competition between covered and noncovered enterprises were the needs of the employees of these enterprises. A custodial worker in an educational institution is as much in need of a minimum standard of living as a custodial worker in an aircraft plant. A transit worker has the same basic financial needs regardless of whether he works for a taxicab company or a local bus system. A food service employee faces the same cost-of-living problems whether employed by a hospital or a food service contractor. Neither employee should be compelled to subsidize the costs of these services to the consumer. Such institutions are compelled to purchase goods and contract services from employers who must pay the minimum wage. They cannot, in good conscience, deny their own employees this bare minimum. They continue to expand and construct new facilities at the prevailing market costs. They can pay their own employees wages necessary for the maintenance of the minimum standard of living. Because these institutions employ an exceptionally large number of professional employees, it is important to note here that the exemption provided by section 13(a)(1) has not been altered. Among others, bona fide professional, administrative, and executive employees are specifically excluded from the coverage of the Act by that section regardless of the type of enterprise in which they perform their duties.

Small establishment exemption

Employees of small retail or service establishments, except laundry and cleaning service employees and employees of hospitals and certain institutions and schools, which have annual dollar volumes of sales which are less than \$250,000 and which do more than 50 percent of their business within the State in which they are located, are exempted from the minimum wage and overtime provisions of the Act. This establishment exemption applies to restaurants, retail food service establishments, hotels, motels, amusement or recreational establishments, and other retail or service establishments as defined in the Act.

*Specific categories of employment affected by bill*TABLE 6.—*Categories of employment to which minimum wage protection has been extended by the bill*

[In thousands]

Category of employment	Number of employees covered by minimum wage for first time in 1967 or 1969	Total number of employees covered by 1969
Retail trade.....	1, 500	4, 086
Restaurants.....	425	432
Hotels and motels.....	275	275
Hospitals and related institutions..	1, 471	1, 471
Miscellaneous services.....	50	349
Laundries.....	505	523
Agriculture.....	485	485
Transit systems.....	65	65
Agriculture in area of production...	90	90
Taxicabs.....	100	100
Logging.....	37	37
Cotton ginning.....	34	34
Construction.....	581	2, 994
Federal Government.....	665	665
All other industries.....	960	25, 230
Total.....	7, 243	36, 836

Specific categories of employment that will be affected by the committee's bill are as follows:

(1) *Retail trade*.—The broadening of the definition of an enterprise "engaged in commerce or in the production of goods for commerce" contained in section 3(s) of the Act and the repeal or modification of certain exemptions in section 13 will result in the extension of coverage of minimum wage and overtime protection to an additional 1.5 million employees (not including restaurant workers) in retail trade. The bill provides for the repeal of sections 13(a)(19) and 13(a)(20) which provide minimum wage and overtime exemptions to employees of establishments primarily engaged in the business of selling automobiles, trucks, or farm implements and for food service employees in retail establishments. Section 13(b) of the Act is amended to provide an overtime exemption for any salesman, mechanic, or partsman employed by establishments primarily engaged in the business of selling automobiles, trucks, or farm implements to the ultimate purchaser, and for any salesman, mechanic, or flight personnel employed by a nonmanufacturing establishment primarily engaged in selling aircraft. Section 13(b) of the Act is further amended to maintain the overtime exemption for food service employees in retail or service establishments. Approximately 4 percent of the newly covered retail trade employees earn less than \$1 an hour.

(2) *Laundries and drycleaning establishments.*—The bill repeals section 13(a)(3) of the Act and amends section 3(s) so as to extend coverage to 505,000 employees in laundering and cleaning establishments. No dollar volume test has been provided. Twenty-two percent of these employees presently earn less than \$1 an hour.

(3) *Restaurants.*—Section 13 is amended so as to extend minimum wage protection to 425,000 of the 1,753,000 employees of restaurants. Approximately 12 percent of these employees presently earn less than \$1 an hour.

Special provisions are made for employees who receive tips. "Wages" are defined in section 101 of the bill so that the wage paid by the employer to a tipped employee will be deemed to be increased (on account of tips) by an amount determined by the employer, but such amount shall not exceed 35 percent of the applicable minimum wage rate during the first 2 years from the effective date of the Fair Labor Standards Amendments of 1966, 40 percent during the third and fourth years, and 45 percent thereafter.

A "tipped employee" is defined in the bill as any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips. This is analagous to the reporting requirements for a tipped employee under the provisions of the Social Security Amendments of 1965.

It should also be noted here that at present "wages" include the fair value of board, lodging, and other facilities customarily provided by the employer to his employees.

These provisions resolve the question of whether certain income of an employee from a source other than his employer, but earned while in the employment of such employer, should be considered wages paid by the employer. This proposal reflects the result of considerable deliberation on the basic issue of tips as wages, as well as the difficult problem of how best to calculate the amount of tips. It further reflects the equitable result of discussions with representatives of the industry, both labor and management.

The practical application of the provisions may be seen by example. For instance, assuming the applicable minimum hourly wage is \$1, the maximum tip allowance is 35 percent of that amount, or \$0.35 per hour. The employer is required to pay the employee a minimum hourly wage of \$0.65, assuming the employee comes under the definition of "tipped employee," and further assuming that he received \$0.35 or more an hour in tips. The 35-percent credit also applies to the minimum hourly wage of \$1.15. When such wage is \$1.30 or \$1.45 an hour, the applicable tip allowance is 40 percent of the respective amounts. When the wage is \$1.60 an hour, the maximum allowance is 45 percent. This means that a maximum of 45 percent of the \$1.60 hourly minimum, or \$0.72 per hour, may be so credited against the employee's wage. The employer then, must pay the balance of the applicable minimum rate—in this case, \$0.88 an hour. All this presumes, however, that the employee is receiving at least the maximum tip credit in actual tips.

If the employee is receiving less than the amount credited, the employer is required to pay the balance so that the employee receives at least the minimum wage with the defined combination of wages and tips.

The bill's tip provisions provide enough flexibility to account for a practice as inconsistent as tipping. To further assure fairness, the bill directs a procedure whereby an employee (either himself or acting through his representative), who shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount credited against his wage by the employer, shall be deemed to have his wages increased by the actual amount of tips.

(4) *Hotels and motels.*—The bill deletes the minimum wage exemption in section 13 for employees of hotels and motels. This will extend minimum wage protection to 275,000 employees employed in lodging enterprises doing an annual business of at least \$250,000. An overtime exemption is maintained for such employees. About 19 percent of these newly covered employees currently earn less than \$1 an hour. "Tipped employees" of hotels and motels will be treated identically to such employees in restaurants as set forth in (3) above.

(5) *Hospitals and related institutions.*—Employees of hospitals, nursing homes, and homes for the aged are presently exempted from the Act under section 13(a)(2)(iii). The bill repeals this exemption and amends section 3 thereby extending coverage to such employees of such enterprises. This will provide minimum wage and overtime protection to approximately 1,471,000 employees of non-Federal hospitals, nursing homes, and homes for the aged. Approximately 16 percent of these employees now earn less than \$1 an hour.

(6) *Employees engaged in logging operations.*—Section 13(a)(15) of the Act is amended to reduce the minimum wage and overtime exemption criteria from 12 employees to 8 employees. This extends protection to approximately 37,000 additional employees who work in logging operations which involve more than 8 employees.

The decision on eight employees was made after careful consideration and investigation of conflicting facts. The committee believes the eight-man criterion to be a sound basis for exemption at the present time, but intends to further investigate these logging operations.

(7) *Motion picture theaters.*—Section 13(a) of the Act is amended to maintain minimum wage and overtime exemptions for employees of such establishments.

(8) *Taxicab companies.*—Section 13(a)(12) of the Act is repealed to provide minimum wage protection to 100,000 employees of taxicab companies. About 15 percent of such employees earn less than \$1 an hour. "Tipped employees" of taxicab companies will be treated identically to such employees in restaurants as set forth in (3) above. Section 13(b) is amended to provide an overtime exemption to drivers in such enterprises.

(9) *Agricultural processing in the "area of production," cotton ginning, country elevator employees, and fruit and vegetable transportation employees.*—Section 13(a)(10) is repealed providing, thereby, minimum wage and overtime protection to 90,000 employees engaged in certain agricultural processing. Some 16 percent of these workers are employed at less than \$1 an hour. Sections 13(a)(17), (a)(18), and (a)(22) are also repealed; however, they have been added to section 13(b) as new paragraphs (14), (15), and (16), resulting in minimum wage coverage with an overtime exemption for approximately 34,000 employees engaged in employment in cotton ginning, country elevators, and local transportation of fruits and vegetables and harvest

workers. About 15 percent of these employees are paid at rates below \$1 an hour.

(10) *Gasoline service stations*.—The bill repeals the overtime exemption in section 13(b)(8) extending overtime protection to 87,000 employees of gasoline service stations.

(11) *Transit systems*.—Section 13(a)(9) of the Act is repealed and sections 13(b)(7) 3(d), and 3(r) are amended so as to extend minimum wage and overtime protection to certain employees of street, suburban, or interurban electric railways, or local trolley or motorbus carriers. Minimum wage protection would be extended to some 65,000 such employees. An overtime exemption is provided for drivers, operators, or conductors of such enterprises.

(12) *Clarification and consolidation of exemptions relating to seasonal industries and the handling and processing of farm products*.—The overtime exemptions provided for in sections 7(b)(3) and 7(c) of the present Act have been amended and as amended placed in the Act as new sections 7(c) and 7(d). The new section 7(c) provides for the continuation of a 14-week overtime exemption for seasonal industries, however, it will not apply to agricultural or horticultural processing and it will require compensation for hours worked in excess of 10 in any workday or 48 in any workweek at least 1½ times the regular rate of pay. This new section is meant to apply to those industries found to be engaged in the handling, extracting, or processing of materials during a season or seasons occurring in a regularly, annually recurring part or parts of the year not substantially greater than 6 months, and which cease production, apart from work such as maintenance, repair, clerical, and saleswork, in the remainder of the year because of the fact that, owing to climate or other natural conditions, the materials are not available in the remainder of the year in the form in which such materials are handled, extracted, or processed. An example is the excavating of peat material.

The new section 7(d) provides for a single 14-week overtime exemption for processing of highly perishable agricultural or horticultural commodities in their raw or natural state, however, compensation for hours worked in excess of 10 in any workday or 48 in any workweek must be at least 1½ times the regular rate of pay. In the case of the processing of highly perishable agricultural commodities the bill allows this processing industry a partial overtime exemption. The exemption is strictly limited by the requirements that it apply only when the agricultural or horticultural commodities being processed are highly perishable and in their raw or natural state. Highly perishable refers to commodities subject to especially rapid deterioration or spoilage under ordinary circumstances unless some affirmative action is taken at once to preserve them from spoilage or decay. The immediacy contemplated by the committee for a commodity to be defined as highly perishable requires that affirmative action be taken within 24 hours of the time the commodity is harvested to prevent a major depreciation in the value of the commodity. It should also be noted that the commodity must be in its raw or natural state, that is, in the form in which it is customarily harvested. When an intervening operation changes this condition in significant respects, the commodity is no longer in its raw or natural state. The committee intends that no employer will be able to avail himself of more than one 14-week overtime exemption under section 7(c) or 7(d) in any calendar year.

(13) *Recordkeeping*.—Though no changes are made with regard to the records that must be kept by employers, because of the extended coverage of the Act some comments on the recordkeeping required under the Act are in order.

There is no particular order or form of records prescribed. Generally speaking, all of these records are already kept. However, to show compliance with the Act employers must maintain records containing the information and data required by certain sections of the Act. With respect to employees who are exempted from the Act, records must be kept which demonstrate that the conditions of the exemption have been met.

For the overwhelming majority of employers, the only information with respect to employees that must be preserved are the following:

- (1) Name;
- (2) Home address;
- (3) Date of birth, if under 19;
- (4) Sex and occupation;
- (5) Time of day and day of week on which the employee's workweek begins;
- (6) Regular hourly rate of pay if overtime compensation is due the employee;
- (7) Hours worked each workday and each workweek;
- (8) Total daily or weekly straight time earnings;
- (9) Total overtime compensation;
- (10) Total additions to or deductions from wages paid each pay period;
- (11) Total wages paid each pay period; and
- (12) Date of payment and pay period covered by payment.

These records are the minimum necessary to demonstrate that the employer has complied with the basic minimum wage and overtime requirements of the Act. Some of these records are already kept by the employer for income tax and social security purposes, or for other reasons. For example, most logging crew employers are now keeping a record of how much such employees are paid, when they are paid, and any deductions from their wages. Essentially, the only additional records that an employer would have to keep would be basic time records showing the hours worked each day and the total hours worked each workweek, together with the amount of straight time and overtime wages required by the Act. Here again, employers normally keep these records as part of sound business practices. A small pocket notebook in which the employer keeps time and other records has worked out well in practice and satisfies the requirements of the regulations to record the hours worked.

The committee anticipates that the Secretary will give full and serious consideration to any suggestions which would simplify record-keeping requirements and still provide the essential information necessary to secure compliance with the Act.

Minimum wage raise for presently covered

Section 6(a) of the Act is amended to provide for an increase in the minimum hourly wage to \$1.40 beginning February 1, 1967, and \$1.60 beginning February 1, 1968, for employees covered by the minimum wage provisions of the Fair Labor Standards Act of 1938 prior to the 1966 amendments. This is an increase in the annual

wage bill for presently covered employees of 0.5 percent in 1967 and 1.1 percent in 1968.

There are 29.6 million workers who are presently covered by the Act and who would be affected by this increase. The annual wage bill for these workers is presently \$145.0 billion.

TABLE 7.—*Estimated number and percent of nonsupervisory employees presently covered by the Fair Labor Standards Act earning less than specified hourly rates and percent increase in wage bill required to raise employees earning less than those rates to those rates*

Presently covered employees	Estimated number of employees earning less than specified rates		Estimated annual wage bill increase ¹	
	Number (thousands)	Percent	Amount (millions)	Percent
Under \$1.40 ----	3, 794	12	\$804	0. 5
Under \$1.60 ----	5, 887	18	1, 958	1. 1

¹ Averages \$979,000,000 or 0.68 percent increase per year over 2 years.

To comprehend fully the need for an increase in the minimum wage, if the policy of the Act is to be implemented, it is useful and significant to talk in terms of weekly and annual salaries. Assuming a 40-hour workweek and a 50-workweek year the proposed minimum wage will yield the following weekly and annual wages:

Beginning date	Rate	Weekly wage	Annual wage
Feb. 1, 1967-----	\$1. 40	\$56	\$2, 800
Feb. 1, 1968-----	1. 60	64	3, 200

Minimum wage for newly covered employees (excluding agricultural and Federal employees)

Section 6(b) of the Act is amended to provide for a gradually escalated increase in the minimum wage from \$1 per hour beginning February 1, 1967, to \$1.15 per hour beginning February 1, 1968; \$1.30 per hour beginning February 1, 1969; \$1.45 per hour beginning February 1, 1970; and, \$1.60 per hour beginning February 1, 1971, for the 6,093,000 employees brought under the minimum wage provisions (other than agricultural workers employed on a farm and Federal employees) for the first time by the 1966 amendments.

TABLE 8.—*Estimated number of nonsupervisory workers brought under coverage of the Fair Labor Standards Act under the provisions of H.R. 13712 who presently earn less than \$1 an hour and estimated annual wage bill cost of increasing their minimum hourly rates to \$1 an hour*

Category	Employees earning less than \$1 an hour		Amount of increase to \$1 an hour	
	Number (thousands)	Percent	Amount (millions)	Percent
Nonagricultural employees-----	728	12	\$202	0.9

NOTE.—Coverage estimates related to scope of coverage in 1969; they do not reflect estimates of employees of employers providing contract services for the U.S. Government nor Federal wage board or nonappropriated fund employees.

In terms of weekly and annual salaries assuming a 40-hour week and 50-workweek year the proposal would read as follows:

Beginning date	Rate	Weekly wage	Annual wage
Feb. 1, 1967-----	\$1.00	\$40	\$2,000
Feb. 1, 1968-----	1.15	46	2,300
Feb. 1, 1969-----	1.30	52	2,600
Feb. 1, 1970-----	1.45	58	2,900
Feb. 1, 1971-----	1.60	64	3,200

Will this increase in the minimum wage result in unemployment? This perennial specter was raised once again during the 1965 hearings by opponents of the Federal wage and hour law despite the 27-year record of the Act. Once again, economic theory was recited to show that marginal workers would lose their positions if employers were compelled to pay a living wage. Subordinating theory, the committee turned to the record of economic growth and high employment in our Nation.

The committee considered the problem of the employment of teenagers and found that low wages are not a function of age, but of industry, area, and type of employment. For example, southern sawmill workers are relatively low-wage employees while auto workers are relatively high-wage employees, regardless of age.

Most economists agree that the degree of impact of a change in the minimum wage upon the economy depends upon two important factors. These are (1) the magnitude of the change, and (2) the state of general business activity at the time the change goes into effect.

With regard to the first point, this report has already pointed out the gradual increase that the bill proposes and the small increment to the annual wage bills of the affected employers.

With respect to the second point, the state of general business activity is optimal in terms of raising the minimum wage. The average annual rate of increase in the real volume of gross national product from 1948 through 1964 is 3.7 percent, from 1960 through 1964 it is more than 4.3 percent. The gross national product has increased from \$257.6 billion in 1948 to \$628.7 billion in 1964, from \$503.8 billion in 1960 to an estimated \$665 billion for 1965. Corporate profits before tax have increased from \$35.2 billion in 1948 to \$50.3 billion in 1961, and \$64.8 billion in 1964. Income of unincorporated enterprises has increased from \$23.1 billion in 1948 to \$35.6 billion in 1961, and \$39.1 billion in 1964.

These trends are continuing as is seen by the seasonally adjusted quarterly totals of national income at annual rates. Corporate profits before tax for the second quarter of 1965 are estimated to be \$73.8 billion as compared to \$64.5 billion for the same quarter in 1964. Proprietors' income for the second quarter of 1965 is estimated to be \$54.6 billion as contrasted to the same quarter of 1964 when income was \$51 billion. These trends indicate that the adjustment to the economic impact of this legislation should be a relatively easy one for American businesses to make.

Since 1962, in various ways, with the enthusiastic support of Council of Economic Advisers, we have granted tax reductions having an annual value not far from \$20 billion. If our economy could afford this, with at least \$10 billion of these tax reductions flowing to corporations and to individuals with high enough incomes to save considerably for investment purposes, it would seem that the economy can easily afford to increase by an annual amount far below that figure the wage incomes of workers now living below the poverty ceiling.

In the relatively prosperous year of 1963, 8.5 million people in the United States, including over 2 million family breadwinners, worked throughout the year at a full-time job yet had an income below the poverty level (\$3,000). A fifth of American families were poor, and in 1 out of 4 of these poor families the breadwinner worked full time year round for low wages. The fact is the majority of poor families in 1963 had one or more persons working part of or all year. No one should have to toil throughout the year for total earnings insufficient to adequately provide for his family.

Poor families with fully employed breadwinners in 1963 had 5¾ million children, or about 40 percent of all of the Nation's poor children. Nine out of ten such families were headed by men; about one-third of all such low-income families were nonwhite. A disproportionately large number of Negroes are in low-wage jobs (jobs producing earnings of less than \$3,000 annually for one-third of the workers employed for 50 weeks). Negro women comprise about 1 out of 8 working women, but 1 out of 6 women in low-wage jobs. Among men, Negroes are only about 1 out of 12 nonagricultural workers but 1 out of 4 in the low-wage jobs. The higher incidence of poverty among nonwhites is attributed, in part, to their greater incidence of employment in low-wage occupations. Nevertheless, white workers predominate numerically in almost all the low-wage jobs. Most of those employed in low-wage occupations—two-thirds of the women and about half of the men—were in their prime working years (25 to 54 years old).

Family heads accounted for 1 out of 3 workers in low-wage jobs in 1960. Within the low-wage occupations, 60 percent of the family heads had children under age 18.

Twenty percent of working Negro men and 5 percent of working white men have low-wage jobs.

These low-wage jobs are usually not under collective bargaining agreements, nor are they usually covered by the Act. The bill seeks to remedy the intolerable situation of fully employed persons, regardless of their race or color, earning wages which cannot raise them from poverty.

The wages of workers not covered or exempt from the Act generally do not rise with increases in the cost of living and as a result these workers suffer a continuing decline in real earnings. These workers who are denied the modest benefits of the Act comprise a chronically depressed class. For example, laundry workers have long been among the lowest paid in the country. In 1939, average hourly earnings of laundry workers were 42 cents, several cents higher than the earnings of employees working in men's and boys' shirts and nightwear plants (39 cents) and in cigar plants (41 cents), and 1 cent lower than the earnings of employees in fertilizer manufacturing plants (43 cents). By 1960, earnings in each of these industries exceeded laundry earnings. They were 10 cents higher in men's and boys' shirts and nightwear, 22 cents higher in cigars, and 63 cents higher in fertilizer manufacturing. The three manufacturing industries are still relatively low-paying industries, but coverage under the Act has meant not only higher earnings on an average, but a floor under which wages could not go.

In the report to the 89th Congress (January 1966) by the Secretary of Labor regarding the Fair Labor Standards Act, the Secretary made the following comments which are relevant to this report:

The Fair Labor Standards Act includes the Congress' instruction that the Secretary of Labor make an annual accounting of its operation and administration, including recommendations for improvement and amendments.

There is particular reason this year for careful compliance with this instruction.

The series of minimum wage increases and extensions of coverage adopted by the Congress in 1961 was completed in September 1965, and it is possible now to assess substantially their effect.

Proposals for further amendment of this Act, presently before the Congress, warrant particular attention to data illuminating the prospective effect of such changes.

More generally, a heightened national purpose to insure against anyone in this country remaining poor, except by his own default, has reawakened recognition of the place of the minimum wage law in the arsenal of weapons for the war against poverty * * *.

Surveys and studies show this:

First: The effect of the 1961 amendments has been to raise the earnings of between $3\frac{1}{2}$ and 4 million workers (as a matter of statutory guarantee) by an annual total of approximately \$1.2 billion.

Second: During the period in which these amendments have become effective, employment has risen dramatically; so have profits; and there has been remarkable price stability. The record negatives any suggestion that these statutory changes have retarded economic expansion, adversely affected employment, reduced profits, or contributed to inflation.

Third: The present operation of the Act is not responsive to currently accepted principles of economic equity.

More than 17 million American workers (nonsupervisory) [in private industry] are still left outside the Federal minimum wage protection and this excluded group includes a high concentration of lower paid workers.

Almost two-thirds of all white workers come within the present minimum wage coverage provisions of the Act, but less than half of all nonwhite workers are covered. Similarly, two-thirds of all men employed in nonsupervisory jobs are covered by the Act, but only about half of the women in such jobs.

The present statutory minimum wage level (\$1.25) produces annual earnings (\$2,600) substantially less for full-time work (40 hours a week for 52 weeks) than the recognized \$3,000 "poverty level." Over 6 million children in the United States are today members of families in which the father or mother is working full time but earning a poverty wage.

Fourth: The available data indicates that further extension of the coverage of the Act, increases in the minimum wage level, and changes in the overtime provisions would serve the purposes of the Act without adverse effects in terms of unemployment or inflation * * *.

The amendments adopted by the Congress in 1961, which became operative at various times between September 3 of that year and September 3, 1965, have had the effect (as a matter of statutory guarantee) of increasing the wage rates of between 3½ and 4 million workers. The cumulative effect of these changes has been to increase the earnings of these employees by a total of \$1.2 billion annually.

The 1961 increase to \$1.15 of the guaranteed rate for employees previously covered and the establishment at that time of a \$1 rate for certain newly covered employees affected approximately 2½ million workers. The estimated value of the increased earnings, on an annual basis, was \$536 million.

The 1963 increase in the rate to \$1.25 (for employees covered before 1961) required increases in the hourly wages of 2.6 million employees; and the estimated annual value of these increases was \$365 million.

The September 1964 increase to \$1.15 for newly covered employees affected 565,000 jobs, and had a value of about \$115 million.

The September 1965 increase to \$1.25 for the new coverage group meant increases in 810,000 jobs, and carried a value of about \$162 million * * *.

The half-truth which has had the largest influence on the history of the Fair Labor Standards Act is that an increase in the minimum rate increases unemployment. This is un-

questionably right in terms of what would be the certain effect of an unreasonable and irresponsible raising of the statutory minimum. Yet the record is that following the original establishment of the 40-cent hourly rate in 1938, after it was set at 25 cents in 1938, then 30 cents in 1939, 40 cents in 1944, to \$1 in 1956, employment in the United States always went up—and usually went up more in the lower paid occupations most directly affected by the statutory requirement than in other occupations. Conversely, the unemployment rate went down—despite substantial increases in the work force generally and among those in the lower paid occupations in particular. There is no evidence that this was because of the statutory change. In fact it was in each instance because the raising of the minimum rate came at a time of general economic expansion. But there is clearly no evidence in the 28 years of experience of unemployment resulting from statutory minimum wage rate increases. The strong—and only—indication from the record is that reasonable increases in the minimum rate have no retarding effect on an expanding economy and do not result in larger unemployment than there would have been in the absence of such increases.

The record of the past 5 years, during which four increases in statutory minimum wages became effective, parallels and confirms the previous experience.

Employment increased between 1961 (before the minimum wage changes went into effect) and late 1965 (after the last change) by about 8 million, and unemployment dropped from 7.0 percent (seasonally adjusted) in May 1961 to 4.1 percent in December 1965 * * *.

Employment went up faster and further, between 1961 and 1965, among the worker groups (teenagers, unskilled, nonwhite) which are most affected by the minimum wage guarantee than among those (adults, skilled, white) less affected by it. There were, of course, more workers in these lower paid groups to be employed. These are the groups most affected, so far as employment is concerned, by both downturns and upswings in the economy. They have also been the most direct beneficiaries of the manpower, education, and antipoverty programs. This is, nevertheless, where any adverse effects of the change in the Fair Labor Standards Act should have shown up. None did * * *.

The most clearly marked change in the 1961 amendments was in its expanded coverage of retail trade. A comparison of retail trade employment in June 1965 with what it had been in June 1961 shows an increase of 300,000 in retail trade employment (from 2.4 million to 2.7 million) during this 4-year period; an increase in each of the four broad regions in the country (ranging from 8 percent in the South to 31 percent in the West); and that many retail trade employers put the \$1.25 rate and the 40-hour overtime rule into effect prior to the time they were required to do so by statute * * *.

The evidence regarding the relationship between minimum wages and prices is similar to that regarding their relationship to employment.

The period during which the 1961 amendments have become effective has been one of extraordinary price stability. The general wholesale price level in April 1964 (7 months after the \$1.25 rate went into effect for the majority of covered employees) was almost exactly the same as it had been in April 1961 (5 months before the effective date of the first step increase from \$1 to \$1.15) * * *.

Finally, there is the question of the relationship of minimum wage levels to profits.

Here again, the evidence is only (i) that this most recent period of increases in statutory wage levels has also been a period of rapidly rising profits, and (ii) careful review shows no identifiable correlation between the profit increase for particular industries or employers and the extent to which they have been affected by the statutory changes.

There is tangential relevance in the fact that the earnings of workers in jobs affected directly by the 1961 amendments increased by 8 percent between 1961 and 1965, and the profits of their employers (figured as a percentage return on equity investment) increased during the same period by 30 percent before taxes and 40 percent after taxes.

The required conclusion from all of these studies and analyses is that the 1961 amendments to the Fair Labor Standards Act have not resulted in any identifiable retarding of economic expansion, decrease in employment, contribution to inflation, or diminution of profits.

There could be no better time than the present period of unprecedented business prosperity to broaden the base of the Act and to increase the minimum wage to a level which will provide a living wage. This is an essential effort in our war on poverty. Our concern cannot focus solely upon the unemployed when the working poor live in poverty too. Many families living in poverty today do not need the services of welfare workers, nor public assistance, nor charity. What they need is a living, decent wage for the family breadwinner. One of the reasons that they are denied this minimum standard of protection is that they are employed in industries excluded from the coverage of the Act. The Act was a major, almost revolutionary, social achievement in 1938. Its announced objective was to eliminate substandard labor conditions "as rapidly as possible." The original pace will be restored by these amendments.

Agricultural labor coverage and minimum wage

The wages paid most farmworkers are far below the minimum wage standards established by the Act. The exclusion of farmworkers from minimum wage protection is inequitable and inconsistent with the statement of policy of the Act which is to eliminate "labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers."

It was not the intention of the originators of the Act to fail to provide protection for farmworkers. In his message to the Congress on May 24, 1937, proposing that a floor be placed under wages, President Roosevelt stated:

Legislation can, I hope, be passed at this session of the Congress further to help those who toil in factory and on farm.

Nevertheless, the exemption for farmworkers was embodied in the original enactment in 1938, and the exemption has remained in the Act since that time.

In a report issued in November 1963 by the National Agricultural Advisory Committee entitled, "The Family Farm in American Agriculture," it was stated:

We recommend that minimum wages and improved working conditions, in terms adapted to agricultural production, be extended, by stages, to hired farmworkers on a national basis until comparability with industrial minimums is attained.

The minimum wage should insure a minimum standard of living for each wage and salary worker in the country. It is a *minimum* wage, not an *average* wage, and it would be inappropriate therefore, for it to reflect differences in skill or productivity.

The bill amends section 13(a)(6) of the Act so as to extend minimum wage protection to 485,000 agricultural workers. They will remain exempt from the overtime provisions of the law. The minimum wage for covered agricultural workers will be \$1 an hour beginning February 1, 1967; \$1.15 an hour beginning February 1, 1968; and \$1.30 an hour beginning February 1, 1969. Room, board, and other facilities customarily furnished employees by employers are "wages" according to their fair value or reasonable cost as provided for in section 3(m) of the Act.

The committee is fully cognizant of its action in entering the area of agricultural employment. Opponents of this coverage constantly assert that agriculture is an area to which the minimum wage cannot be applied. By limiting the wage increase to \$1.30 an hour, the committee is affirming its intention to follow closely the effect of minimum wages in agriculture. It is not, however, subordinating its belief in a minimum wage as a wage below which no employee should be paid. Likewise, it is in no way implying that the wage floor for agricultural employees should lag permanently behind that of other protected employees.

Of the agricultural workers to be covered, some 213,000 (44 percent), presently earn less than \$1 an hour. Given the initial coverage of such workers at \$1 an hour, the wage bill increase for agriculture will be \$52 million.

The method of covering agricultural workers received considerable attention. A dollar-volume test, such as that applied to enterprises, is inapplicable in an industry so subject to seasonal variation. The committee decided an equitable and administerable formula would be a test considering the quantity of labor used by an individual farm. This accounting procedure would reflect the variations of farm activity.

Generally, only the employees of large farms will be covered. To be covered, an employee must be employed by an employer who used more than 500 man-days of agricultural labor in any calendar quarter of the preceding year. "Man-day" means any day during any portion of which an employee performs any agricultural labor. If the employer used more than 500 man-days of agricultural labor as

specified, all of the employees on that farm are covered by the minimum wage. This is intended to provide protection to the employees of large agri-business enterprises. Five-hundred man-days is approximately the equivalent of seven employees full time in a calendar quarter. Therefore, it would generally require that a farm have seven or more full-time employees, a considerable enterprise in farming, before the employees receive minimum wage protection. The parent, spouse, child, or other member of an agricultural employer's immediate family are not covered.

The calculation of man-days is not a simple count of all workers on a farm. The bill provides that certain agricultural employees not be included in the general count; that is, the labor of certain employees will not be recognized as increasing the man-day count. The employees who will not be included in determining whether or not an individual farm exceeds the 500 man-day criteria are—

- (1) the parent, spouse, child, or other member of an agricultural employer's immediate family; or

- (2) an employee who (a) is employed as a hand harvest laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment, (b) commutes daily from his permanent residence to the farm on which he is so employed, and (c) has been employed in agriculture less than 13 weeks during the preceding calendar year.

The latter category generally defines local, temporary employees, who work during a crop harvest. The committee did not intend to have the limited labor of these employees raise the man-day count above 500. The committee further believes that an individual employed in agriculture for fewer than 13 weeks should not be considered as an agricultural employee. The effect of including these employees in the man-day count would be to cover the employees of small farms which may utilize extensive local and temporary labor during a harvest season.

It is intended that the minimum wage provisions of the Act be extended to certain sharecroppers and tenant farmers. The test of coverage for these persons will be the same test that is applied to determine whether any other person is an employee or not. Employer, employee, and employ, are all defined terms in the Act. Coverage is intended in the case of certain so-called sharecroppers or tenants whose work activities are closely guided by the landowner or his agent. These individuals, called sharecroppers and tenants, are employees by another name. Their work is closely directed; discretion is nonexistent. True independent-contractor sharecroppers or tenant farmers will not be covered; they are not employees.

The Supreme Court (in *Rutherford Food Corp. v. McComb*, 331 U.S. 722 (1947)) has made it clear that there is no single rule or test for determining whether an individual is an employee or an independent contractor, but that the "total situation controls." In general an employee, as distinguished from a person who is engaged in a business of his own, is one who "follows the usual path of an employee" and is dependent on the business which he serves. As an aid in assessing the total situation, the Court mentioned some of the characteristics of the two classifications which should be considered. Among those are:

- (1) The extent to which the services rendered are an integral part of the principal's business;
- (2) The permanency of the relationship;
- (3) The opportunities for profit or loss;
- (4) The initiative, judgment, or foresight exercised by the one who performs the services;
- (5) The amount of investments; and
- (6) The degree of control which the principal has in the situation.

The committee fully subscribes to these criteria.

Testimony indicates that there are large numbers of so-called sharecroppers who are not allowed to make a single economic decision regarding the land upon which they live and work. For example, they do not decide what to plant, when to plant, when to harvest, where to purchase seed, or where to sell the product of their labor. For these people, the term "sharecropping" only denotes a means of compensation; it conveys no connotation of independence, individualism, or self-determination. On the other hand, there are true tenant farmers, who make basic economic decisions upon which rest the productivity of the farm and consequently the amount of their compensation. Generally these tenants operate farms owned by absentee landlords. They are unsupervised, make day-to-day decisions necessary to the running of the farm, and share in the profits related to the productivity, for which they are greatly responsible. Such persons are not intended to be covered by the Act.

Average hourly earnings in agriculture were 90 cents in 1964 in the United States. In some States the average falls below 60 cents an hour, and there are reports of wages of 30 cents an hour. Migrant agricultural workers had average annual earnings of only \$868 in 1963, and this includes \$211 earned during an average of 17 days of nonfarm work. In 1961, in households with three or more farm wage workers, the total year's farm and nonfarm earnings of these family members together averaged only \$1,432. This is less than half of the \$3,000 income level below which families are considered to be living in poverty.

The two top classes of farms (class I equals \$40,000-plus and class II equals \$20,000 to \$39,999, total value of farm products sold commercially) include only 9 percent of all farms, but they produce 50 percent of all farm output. These two top classes of farms pay out more than 70 percent of the total annual farm wage bill. In fact, class I farms alone pay out more than half of the annual commercial farm wage bill. Very recent sample studies indicate that this concentration of agricultural production and hired labor on large farms has been increasing. Such cost increases, focused primarily upon the largest agri-business enterprises who tend to be the price leaders, would tend to create a more favorable competitive situation for family farm operators. The imputed wage for the family farm operator and his family would no longer be so drastically undermined by the tragic wages of workers on the largest farms.

There were 2.6 million households in the United States that contained at least one person who did farmwork for wages in 1962. The total population of these households is 11.2 million persons. Forty percent of these households had an annual income of less than \$2,000 and 56 percent of such households had annual income below \$3,000.

Between 1950 and 1960 output per agricultural man-hour increased 69 percent compared with 23 percent in nonagricultural employment.

From 1960 to 1964, the output per man-hour in agriculture increased 23 percent compared with 13 percent in nonagricultural industries. The labor of 1 farmworker supplied the farm products needs of 11 persons in 1940, 15 persons in 1950, 26 persons in 1960, and 33 persons in 1964. This has been accomplished through the use of improving farming techniques. Mechanical harvesting has made enormous strides and use of fertilizers and other chemical agents has grown rapidly. Despite this gain in productivity, wages of farmworkers have lagged far behind those of workers in nonagricultural industries. Not only have farm labor wages lagged behind those of other workers, but a widening of the gap between agricultural and nonagricultural wages has, in fact, occurred despite the fact that output per man-hour in agriculture was 2.7 times as great in 1964 as in 1947, while in non-agricultural industries it was 1.6 times as great.

The policy of the Fair Labor Standards Act is to provide a wage which will enable a worker to maintain a decent standard of living. If prices were to rise equally or faster than the rise in wages, the real earnings of workers would remain stable or decline. If the price of farm products were to rise more than wages as a result of the coverage of farmworkers, the intent of the legislation would be negated. Thus, the committee looked at the relation of the cost of field labor to the price of farm products to the consumer. The conclusion is clear. Field labor is a very small percentage of costs to the consumer. The cost of bringing seasonal agricultural wages up to the level of about \$1.25 an hour is approximately equal to 1 cent per unit for most vegetables and fruits—per pound or per dozen or per head or whatever the ordinary unit may be. If retail prices go up more than that and if the increase is blamed on rising labor costs in the field, the American housewife should demand a complete and immediate congressional inquiry.

Puerto Rico and the Virgin Islands

As the minimum wage is increased for the mainland, the minimum wage orders for Puerto Rico and the Virgin Islands will be increased proportionately for those persons covered by the Act prior to the 1966 amendments. For example, where minimum wage orders for Puerto Rico provide for a minimum wage rate of 75 cents an hour, the rate will increase by 12 percent of this rate beginning 60 days after February 1, 1967, or 1 year after the effective date of the most recent applicable wage order, whichever is later. Effective 1 year after such date, the increase will be 16 percent of the rate applicable on February 1, 1967. This would, in the example cited, require an increase of 9 cents the first year and 12 cents the second year, resulting in a wage rate of \$0.96 after February 1, 1968.

The minimum wage rates for employees (including agricultural employees) in Puerto Rico and the Virgin Islands who would be brought under the Act by the amendments made by the bill would be set by the Secretary of Labor upon the basis of recommendations of special industry committees appointed by the Secretary in accordance with the present provisions of sections 5 and 8 of the Act. The goal of such committees is "to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed" for newly covered mainland employees by the Act. This provision follows the procedure adopted in

1961 for setting the minimum wage rates for employees in Puerto Rico and the Virgin Islands brought under the Act at that time.

Federal employees

Section 306 of the bill amends section 18 of the Act to provide that Federal employees whose compensation is required to be fixed and adjusted in accordance with prevailing rates and employees in non-appropriated fund instrumentalities under the jurisdiction of the Armed Forces shall receive not less than the appropriate rate provided for in section 6(a)(1) of the Act and shall receive compensation for hours worked in excess of 40 in any workweek at an hourly rate not less than $1\frac{1}{2}$ times such employee's regular rate of pay. This provision shall apply only in the case of such employees who perform services during the workweek within the United States.

Such employees will receive not less than \$1.40 an hour beginning February 1, 1967, and not less than \$1.60 an hour beginning February 1, 1968. There are approximately 665,000 employees in such categories of employment. This provision has been added to the Act to affirm that no employee of the Federal Government, or of an instrumentality under the jurisdiction of the Federal Government, should receive compensation at rates less than those prescribed by the Federal Act for private employment.

Maximum hours

The most significant aspect of the maximum hours provisions of the bill is that it maintains the rate of overtime compensation for hours worked in excess of the statutory maximum in any workweek at not less than $1\frac{1}{2}$ times the regular rate of pay.

The rate of time and one-half the regular rate of pay is continued for presently covered workers for hours worked in excess of 40 in any workweek.

For employees newly protected by the overtime provisions of the Act (including such newly protected agricultural processing employees), overtime protection is phased in over a 2-year period. Beginning February 1, 1967, compensation for hours worked in excess of 44 in any workweek must be at not less than $1\frac{1}{2}$ times the regular rate of pay. The maximum workweek will be 42 hours beginning February 1, 1968, and conform to the present 40-hour workweek beginning February 1, 1969.

Approximately 5 million employees will be protected by the overtime provisions of the Act for the first time. Without question, thousands of new jobs will become available as the excessive hours worked by present employees are reduced. Because so many of these jobs require a minimum of skill, training, or education, the opportunities that will be created for the long-term unemployed will be one of the major contributions of this legislation.

Students

A special provision allowing the payment of not less than 85 percent of the applicable minimum wage to full-time students in retail or service establishments or engaged in agriculture is provided for in the bill. This will allow full-time students to work during school vacations at full-time jobs or at any time in part-time jobs at not less than 85 percent of the applicable minimum wage. These provisions apply only when they are necessary to prevent curtailment of employment opportunities for full-time students, but in no case may they apply

where the Secretary finds that employment of full-time students at subminimum wages will create a substantial probability of reducing full-time employment opportunities of nonstudents. This provision applies to individual employees granted certificates by the Secretary. This provision limits the number of student hours which may be paid for at subminimum wages in retail or service establishments to the proportion of such hours in such establishments or similar establishments prior to the 1961 amendments.

Management trainees

A special overtime exemption is provided for bona fide management trainees in retail or service establishments. This provision is limited to 18 months per trainee. It shall not apply where the trainee is employed in excess of 48 hours in any workweek. Compensation for hours worked in excess of 40 in any workweek shall be at not less than $1\frac{1}{2}$ times the minimum wage rate applicable to such employee. No establishment with 50 or fewer employees may have more than 1 trainee and an establishment with more than 50 employees may have a number of trainees equal to 3 percent of the total number of employees in the establishment above 50, plus 1.

Employment of youth

Section 501(b) of the bill permits the employment of youth under 21 "during the first 6 weeks of full-time employment of such employee's employment career" at 75 percent of the applicable minimum wage.

The subsection is intended to encourage employment opportunities for young people in an activity directed toward their careers. To ensure this result the committee chose the phrase "such employee's employment career" as a limiting term. The committee recognizes the difficulty an employer may encounter in determining with precision the ultimate career of an employee. A reasonable and practical interpretation taking into consideration the employee's education and skill levels should be given to the term.

In using the phrase "6 weeks of full-time employment" the committee intends that—

(1) the 6 weeks are to be cumulative and once they have been reached the employee can no longer be employed at the special 75-percent rate;

(2) the term "weeks of full-time employment" must be read with the limitation relating to the employee's employment career. Only a full week of full-time employment would qualify an employee for the special rate.

Finally, it is not intended that the wages of this carefully circumscribed class of employees should be further reduced by other provisions in the bill. For example, these employees should either not be employed in a "tipped occupation" or, if they are, no deduction for tips should be permitted. Nor should they be employed in an occupation or activity in which the minimum wage has been set at a lower rate because it involves employment, under special certificates, as a learner, apprentice, handicapped worker, student, or management trainee.

Study of excessive overtime

The initial proposals for changes in the overtime provisions of the Act considered by the committee would have required the payment of

twice the regular rate of pay for hours worked in excess of 48 in any workweek. With regard to the proposal relating to curtailment of excessive overtime work and the recommendation that the penalty overtime wage rate be increased from 1½ times the regular rate of pay to twice such rate for excessive hours, the committee instructed the Secretary of Labor to study excessive overtime and the extent to which such overtime work impedes the creation of new job opportunities, and to report his findings and recommendations to the Congress. Of particular interest to the committee are the answers to such questions as (1) what is regularly scheduled overtime; (2) what is emergency or unavoidable overtime; (3) is the present penalty rate effective in some industries; (4) to whom would the benefits of higher penalty overtime accrue; (5) how many full-time positions would be created; (6) how much overtime is necessitated by a rapid economic growth which outpaces the ability of industry to expand facilities; (7) how would such a proposal aid the hard-core unemployed, youths, minorities, the aged, and the unskilled; and (8) would the United States be adversely affected in its foreign trade or would foreign nations receive an advantage in the domestic market.

These are important proposals. Their absence from the present legislation, except for the study requirements, do not reflect a negative view towards their advisability. Rather, it reflects a prudent, cautious approach to an important proposal that deserves further serious consideration.

SECTION-BY-SECTION ANALYSIS

The following section-by-section analysis is an analysis of the sections in the committee amendment, and all references to the bill are references to the committee amendment.

Section 1. Short title

This section provides that the Act may be cited as the "Fair Labor Standards Amendments of 1966."

TITLE I—DEFINITIONS

Section 101. Tips

In general, the amendments made by this section provide that an employer of a tipped employee may include a portion of such employee's tips in determining the amount of wages that must be paid such employee to meet the minimum wage requirements of section 6. The computation of the amount which may be included as part of a tipped employee's wages on account of tips is set out in the amendment made by subsection (a) of this section to section 3(m) of the Act, which in its definition of the term "wage" contains a comparable provision relating to the inclusion in the wages of certain employees of the value or cost of board, lodging, or other facilities customarily furnished them. Thus, the wage paid a tipped employee is to be treated as increased on account of tips by an amount determined by his employer which—

(1) during the first 2 years from the effective date of the Fair Labor Standards Amendments of 1966, may not exceed 35 percent of the applicable minimum wage rate;

(2) during the third and fourth year from such date, may not exceed 40 percent of such rate; and

(3) during each year thereafter, may not exceed 45 percent of such rate.

However, if the employee (either himself or acting through his representative) can show to the satisfaction of the Secretary that the actual amount of tips received was less than the amount determined by his employer as the amount by which the employee's wage was deemed to be increased, the employee's wage shall be deemed to have been increased by such lesser amount. Consequently, an employer of a tipped employee must pay him at least 65 percent of the applicable minimum wage rate during the period beginning February 1, 1967; 60 percent of such rate during the period beginning February 1, 1969; and 55 percent of such rate beginning February 1, 1971.

The term "tipped employee" is defined in the new subsection (t) added to section 3 of the Act by subsection (b) of this section. Such term is defined to mean any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips. Thus, only the employer in the occupation in which his employee customarily and regularly receives more than \$20 a month in tips may with respect to such employee make the allowances on account of tips provided in the amendment to section 3(m).

Section 102. Definition of enterprise

The amendments made by subsection (a) and (b) of this section relate to the inclusion of the activities of hospitals and related institutions, special schools, and institutions of higher education in the definition of the term "enterprise" and consequently to the minimum wage and overtime coverage of their employees. Further, those amendments provide that the activities of any street, suburban or interurban electric railway, or local trolley or motorbus carrier whose rates and services are subject to State or local regulation (hereafter in this analysis of section 102 referred to as a "local transit system") shall be included in the definition of the term "enterprise".

In section 3(r) of the Act the term "enterprise" is defined to mean related activities performed for a common business purpose. Eleemosynary, educational, or similar activities of organizations which are not operated for profit are not included in the term "enterprise" since they are not performed for a business purpose. Thus, such activities of a hospital or similar institution, a school for mentally handicapped or gifted children, or an institution for higher education, which is operated not for profit, would not be considered an enterprise. However, in the amendment to section 3(r) of the Act made by subsection (b) of this section any activity of such a hospital, school, or institution is to be deemed an activity performed for a business purpose. Thus, for example, employees engaged in a hospital's non-profit activities or employed by a State hospital will now be covered by the minimum wage and overtime provisions of the Act. At present, a publicly operated local transit system is not considered as being operated for a business purpose. However, in the amendment to section 3(r) there is no distinction between a public or private local transit system or a local transit system operated for profit and one operated on a nonprofit basis. Therefore, all the employees of a public local transit system which qualifies as an enterprise engaged in commerce will now be covered by the minimum wage provisions of the Act—an exemption from coverage by the overtime provisions is provided for certain local transit employees.

Section 3(d) of the Act excludes the United States or a State or a political subdivision thereof from the definition of the term "employer." The amendment made to such section by subsection (b) provides that a State or political subdivision thereof shall be considered an employer for purposes of the Act with respect to its employees employed in any hospital or related institution, school for mentally handicapped or gifted children, or institution of higher education or employed in the operation of a local transit system. Thus, certain State or local government employees will be covered for the first time by the minimum wage and overtime provisions of the Act.

Subsection (c) of this section changes the definition of the term "enterprise engaged in commerce or in the production of goods for commerce" contained in section 3(s). Such term is presently defined to mean any of the types of enterprise or establishments described briefly below:

(1) A retail or service enterprise whose annual gross volume of sales is not less than \$1 million.

(2) A local transit enterprise whose annual gross volume of sales is not less than \$1 million.

(3) A construction enterprise whose annual gross volume of business is not less than \$350,000.

(4) A gasoline service establishment whose annual gross volume of sales is not less than \$250,000.

(5) An establishment or any other enterprise, except an establishment referred to above, whose annual gross volume of sales is not less than \$1 million.

The term "enterprise engaged in commerce or in the production of goods for commerce" is amended to mean: an enterprise which has employees engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce, if—

(1) during the period February 1, 1967, through January 31, 1969, such enterprise has an annual gross volume of sales made or business done of not less than \$500,000, or is a gasoline service establishment with an annual gross volume of sales of not less than \$250,000;

(2) during the period commencing February 1, 1969, such enterprise has an annual gross volume of sales made or business done of not less than \$250,000;

(3) such enterprise is engaged in laundering or cleaning services;

(4) such enterprise is engaged in construction or reconstruction; or

(5) such enterprise is engaged in the operation of a hospital, certain institutions for the care of the sick, aged, or mentally ill, certain special schools, and institutions of higher education.

The \$250,000 test under present law for gasoline service establishments is retained so that employees of these establishments will not lose the protection which they now enjoy.

If the only regular employees of an establishment are its owner and his parent, spouse, child, or other immediate family member, such establishment is excluded from this definition, and its sales shall not be included for the purpose of computing the annual gross volume of sales of any enterprise.

Section 103. Agricultural employees

The bill brings agricultural employees under the coverage of the minimum wage provisions of the Act for the first time. In extending minimum wage coverage to agricultural employees, the bill also exempts (in a new sec. 13(a)(6)) from such coverage certain agricultural employees.

The amendments made by this section to section 3 of the Act delineate the exemption based upon the number of man-days of agricultural labor used by the employer. Subsection (b) of this section amends the definition section of the Act to provide that the term "man-day" shall mean any day during any portion of which an employee performs agricultural labor. Thus, if an employer has for 1 day five employees engaged in agriculture he has for that day used (for purposes of the sec. 13(a)(6) exemption) 5 man-days of agricultural labor. In the amendment to the definition of the term "employee" contained in section 3(e) two classes of agricultural employees are excluded from the definition of that term, but only when that term is used in the definition of the term "man-day". The two classes of employees who are so excluded are as follows: (1) any agricultural employee who is the parent, spouse, child, or other member of his employer's immediate family, and (2) any agricultural hand harvest laborer, paid on a piece-rate basis, who commutes daily from his permanent residence to the farm on which he is so employed, and who has been employed in agriculture less than 13 weeks during the preceding calendar year. Thus, in the example given above, if one of the five employees engaged in agriculture fits into one of the classes described above, his employer would have used only 4 man-days of agricultural labor.

TITLE II—REVISION OF EXEMPTIONS

Section 201. Hotel, restaurant, and recreational establishments; hospitals and related institutions

Section 13(a) of the Act provides an exemption from the minimum wage and overtime provision of the Act to employees employed in certain establishments or businesses or positions. Subsection (a) of this section amends section 13(a)(2) of the Act which in general provides such an exemption to any employee employed in a retail or service establishment which—

(1) is in a section 3(s) enterprise and is—

(A) a hotel, motel, restaurant, or motion picture theater or a seasonal recreational or amusement establishment,

(B) a hospital or related institution or a special school, or

(C) an establishment with less than \$250,000 annual dollar volume of sales, or

(2) is not in a section 3(s) enterprise.

The retail or service establishment exemption is revised by subsection (a) to exempt employees of any such establishment (other than an establishment or employee engaged in laundering or drycleaning or an establishment engaged in the operation of a hospital, school, or institution specifically included in the definition of the term "enterprise engaged in commerce or in the production of goods for commerce") which has an annual dollar volume of sales of less than \$250,000. Thus, the exemption for employees of a retail or service establishment

either in a section 3(s) enterprise or not in such an enterprise is retained only for employees in such establishments which have an annual dollar volume of sales of less than \$250,000.

Subsection (b) retains for employees of hotels, motels, and restaurants an overtime exemption. The subsection also provides, with additional limitations, a minimum wage and overtime exemption for recreational establishments. To qualify for the exemption such an establishment must either operate for no more than 7 months in a calendar year or have average receipts for a 6-month period in the preceding calendar year which are not in excess of 33⅓ per centum of its average receipts for the other 6 months of such year.

Section 202. Laundry and drycleaning establishments

This section repeals the minimum wage and overtime exemption applicable to employees in laundry and drycleaning establishments. Thus, this amendment and the amendments providing a new definition of a section 3(s) enterprise and a revision of the retail or service establishment exemption provide for complete minimum wage and overtime protection for employees of such establishments.

Section 203. Agricultural employees

Presently, no agricultural employees are covered by the minimum wage or overtime provisions of the Act. The amendments made in this bill provide a minimum wage for certain agricultural employees but maintain the exemption from overtime provisions of the Act.

The following exemptions contained in section 13(a) relating to agricultural employees are repealed and placed in section 13(b) as exemptions from the overtime provisions of the Act:

(1) Employees employed in agriculture and in the operation of certain irrigation facilities (old sec. 13(a)(6) and new sec. 13(b)(12)), and

(2) Agricultural employees employed in livestock auctions (old sec. 13(a)(16) and new sec. 13(b)(13)).

To determine the agricultural employees to whom the minimum wage will apply, the new exemption from minimum wage coverage established in a new section 13(a)(6) for agricultural employees must be examined. First, the exemption specifically excludes (in clause (B)) an agricultural employee who is the parent, spouse, child, or other member of his employer's immediate family. With respect to any other agricultural employee, the minimum wage coverage depends on whether his employer used during any of the four preceding calendar quarters during the preceding calendar year more than 500 man-days of agricultural labor performed by employees (other than employees excluded from the definition of the term "man-day"). Thus, if in a calendar quarter there were 75 days during which the employer employed six employees (resulting in 450 man-days of agricultural labor), the exemption would apply and the employees would not be covered by the minimum wage, but if he employed seven employees instead of six during such days (resulting in more than 500 man-days of agricultural labor), his employees would be covered by the minimum wage.

Section 204. Agricultural processing employees

This section revises the exemptions relating to agricultural processing employees contained in section 13(a) and section 7 of the Act.

The exemptions in section 13(a) for the following employees have been repealed and placed as new overtime exemptions in section 13(b):

(1) Employees employed by a country elevator (old sec. 13(a)(17) and new sec. 13(b)(14)).

(2) Employees employed in the ginning of cotton (old sec. 13(a)(18) and new sec. 13(b)(15)).

(3) Employees engaged in the transportation of fruit and vegetables or the transportation of farmworkers (old sec. 13(a)(22) and new sec. 13(b)(16)).

There is in section 7(b)(3) of the Act a 14-week overtime exemption, limited to 12 hours a day and 56 hours a week, applicable to employees employed in seasonal industries. A revised version of this exemption has been established by section 201(c) of the bill as a new section 7(c). The new exemption will apply only to employees employed in a seasonal industry which is not engaged in agricultural processing, and it is limited to 10 hours a day and 48 hours a week.

The present overtime exemption in section 7(c) of the Act may be summarized as follows:

(1) There is a year-round unlimited exemption applicable to employees of employers engaged in—

(A) first processing of milk, etc., into dairy products,

(B) cotton compressing and ginning,

(C) cottonseed processing, or

(D) the processing of certain farm products into sugar.

(2) There is a 14-week unlimited exemption applicable to employees of employers engaged in—

(A) first processing, etc., of perishable or seasonal fresh fruits or vegetables,

(B) first processing within area of production of any agricultural commodity during a seasonal operation, or

(C) handling or slaughtering of livestock and poultry.

The present exemption in section 13(a)(10) of the Act provides a complete year-round exemption from both the minimum wage and overtime provisions of the act for employees in the area of production and engaged in—

(1) handling, preparing, etc., of agricultural or horticultural commodities in their raw or natural state,

(2) canning agricultural or horticultural commodities for market, or

(3) making dairy products.

These exemptions are replaced by new exemptions contained in a new section 7(d). That section provides a 14-week overtime exemption, limited to 10 hours a day and 48 hours a week, for employees employed in an industry found by the Secretary (1) to be engaged in the handling, processing, etc., of highly perishable agricultural or horticultural commodities in their raw or natural state, and (2) to be either seasonal in nature or characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of such commodities from farms. Highly perishable agricultural or horticultural commodities are those which in their raw or natural state are subject to especially rapid deterioration or spoilage unless some affirmative action is taken at once to preserve them from a major depreciation in value. "At once" means within 24 hours. A seasonal industry is one which stops its primary opera-

tions during those parts of the year when as a result of natural conditions the commodities handled in such industry are not available. On the other hand, an industry characterized by seasonal peaks of operation does not stop its primary operations during the year but rather maintains them at a constant level except during certain periods of the year when its operations are greatly expanded to take care of the seasonal influx of the commodities in their raw or natural state. The committee intends that no employer will be able to avail himself of more than one 14-week overtime exemption under the new sections 7(c) or 7(d) in any calendar year.

Section 205. Small newspapers

The present section 13(a)(8) of the Act provides a minimum wage and overtime exemption for employees of certain small newspapers if the major part of the newspaper's circulation is within the county in which it is printed and published. Such section is amended by this section so that the major part of the newspaper's circulation need only be in the county in which the newspaper is published.

Section 206. Transportation companies

The minimum wage and overtime exemption provided in section 13(a)(9) of the Act for all employees of a local transit company not in a section 3(s) enterprise is repealed by subsection (a) of this section. However, in the amendment made by subsection (c) to section 13(b) of the Act an overtime exemption is maintained for the operating employees of a local transit company whose rates and services are subject to State or local regulation. The present section 13(b)(7) of the Act provides such an exemption for all employees of local transit systems.

Subsection (b) repeals the minimum wage and overtime exemption for all taxicab company employees and substitutes an overtime exemption for only the drivers employed by such companies.

Section 207. Motion picture theater employees

This section in a new section 13(a)(9) retains for motion picture theater employees a minimum wage and overtime exemption.

Section 208. Logging crews

The minimum wage and overtime exemption provided for crews of 12 men or less engaged in lumbering and forestry operations is amended by this section to provide such an exemption only in the case of crews of 8 men or less.

Section 209. Automobile, aircraft, and farm implement sales establishments

The minimum wage and overtime exemption provided by section 13(a)(19) of the Act for the employees of a retail or service establishment primarily engaged in the selling of autos, trucks, and farm implements is repealed, but an overtime exemption is provided in a new section 13(b)(10) for the salesmen, mechanics, and partsmen employed in such establishments and for the salesmen, mechanics, and flight personnel of aircraft sales establishments. It is the intent of this exemption to exclude from the coverage of section 7 all mechanics, salesmen, and partsmen employed by an automobile, truck, farm implement, or aircraft dealership, even if they work in physically separate buildings or areas so long as they are employed in a department which is functionally operated as part of the dealership. The

term "mechanic" is intended to include all employees doing mechanical work, such as get-ready mechanics, automotive, truck, farm implement, or aircraft mechanics, body or fender mechanics, used car reconditioning mechanics, and wrecker mechanics.

Section 210. Food service employees

The minimum wage and overtime exemption contained in section 13(a)(20) of the Act which covered food service employees is repealed, and an overtime exemption is provided such employees in a new section 13(b)(18).

Section 211. Gasoline service stations

The overtime exemption contained in section 13(b)(8) of the Act which was applicable to employees of gasoline service stations is repealed.

Section 212. Petroleum distribution employees

The unlimited overtime exemption contained in section 13(b)(10) of the Act which covered petroleum distribution employees is repealed, and an overtime exemption, limited to 12 hours a day and 56 hours a week, is provided in a new section 7(b)(3) for such employees if they receive compensation for the hours of employment in excess of 40 but no more than 56 in any workweek at a rate not less than one and one-half times the applicable minimum wage rate.

Section 213. Eniwetok and Kwajalein Atolls and Johnston Island

This section makes the Act applicable to employees in Johnston Island and in the Eniwetok and Kwajalein Atolls.

Section 214. Technical and conforming amendments

This section makes a conforming amendment to section 3(n) to reflect the amendment to section 3(s) and also redesignates the paragraphs remaining in section 13(a) for the purpose of filling the gaps left by the repeals made in this title of the bill.

TITLE III—INCREASE IN MINIMUM WAGE

Section 301. Presently covered employees

This section amends section 6(a) of the Act to increase the minimum wage to be paid employees who now receive the protection of the minimum wage provisions of the Act. The new minimum wage rate for these persons will be \$1.40 an hour during the year beginning February 1, 1967, and \$1.60 an hour beginning February 1, 1968.

The amendment made by subsection (b) of this section does not make any substantive change, but rather merely rearranges the order of the provisions of the present Act.

Section 302. Agricultural employees

The amendment made by this section requires employees employed in agriculture, unless specifically exempted, to be paid a minimum wage. The minimum wage rate for these employees will be \$1 an hour during the year beginning February 1, 1967; \$1.15 an hour during the next year; and \$1.30 an hour beginning February 1, 1969.

Section 303. Newly covered employees

This section amends section 6(b) of the Act to prescribe the minimum wage to be paid employees who are newly brought within the purview of the Act by the amendments made by this bill. Under

this provision the newly covered employees will receive wages at rates not less than \$1 an hour beginning February 1, 1967; not less than \$1.15 an hour beginning February 1, 1968; not less than \$1.30 an hour beginning February 1, 1969; not less than \$1.45 an hour beginning February 1, 1970; and not less than \$1.60 an hour beginning February 1, 1971.

Section 304. Employees in Puerto Rico and the Virgin Islands

Under the present Act, minimum wage rates for Puerto Rico and the Virgin Islands are established by the Secretary pursuant to recommendations of special industry committees. The wages established for an industry must be set at levels as close as economically feasible to the applicable mainland level, but may not be higher than the rate which would be applicable in the United States.

This section prescribes the manner in which wage rates in Puerto Rico and the Virgin Islands will be adjusted in light of the increases proposed in the bill. Under these provisions, the wage rates for those persons who are presently covered will be increased 12 percent effective 60 days after February 1, 1967, or 1 year from the effective date of the most recent wage order applicable to the employees, whichever is later. Then 1 year later the wage rate for such persons will be increased by an amount equal to 16 percent of the rates applicable under the most recent wage order issued by the Secretary before February 1, 1967.

In the case of employees in Puerto Rico and the Virgin Islands (including agricultural employees) who have not heretofore been covered by the Act, the Secretary must within 60 days after February 1, 1967, appoint a special industry committee to recommend the minimum wage rate to be applicable, in accordance with the usual standards prescribed in the law. These rates will be effective with respect to the employee upon the effective date of the wage order issued pursuant to the recommendations of the industry committee, but not before 60 days after February 1, 1967.

Section 305. Contract services to Federal Government

This section adds a new subsection at the end of section 6 under which every employer providing a contract service under a contract with the United States, or any subcontract thereunder, must pay to each of his employees (other than an employee employed in a capacity described in section 13(a)(1)) wages at rates not less than the rates provided in section 6(a)(1)—that is, the rates applicable to presently covered employees.

Section 306. Federal employees

In an amendment to section 18 of the Act it is provided that certain Federal wage board employees and employees in nonappropriated fund instrumentalities of the Armed Forces, e.g., post exchanges, must be paid basic compensation at a rate not less than the rate provided in section 6(a)(1) of the Act and also must be paid for overtime work at a rate not less than that specified in section 7(a) of the Act. This requirement applies only if such employees are employed in the District of Columbia or a State of the United States.

TITLE IV—APPLICATION OF MAXIMUM HOURS PROVISIONS

Section 401. Presently and newly covered employees

This section amends section 7 of the Act to prescribe a uniform 40-hour standard workweek for all of the employees who are presently covered. It also establishes for newly covered employees a standard workweek of 44 hours during the year beginning February 1, 1967, 42 hours during the next year, and 40 hours thereafter. Employees employed in excess of the hours above specified must be paid at a rate not less than $1\frac{1}{2}$ times the regular rate at which they are employed.

Section 402. Commission salesman

This section amends subsection (h) of the present Act (subsection (i) of the Act as redesignated by the bill) which now provides an exemption from the overtime provisions of the Act in the case of an employee of a retail or service establishment whose regular rate of pay is more than $1\frac{1}{2}$ times the minimum rate, if more than half his compensation represents commissions on goods or services. The amendment provides that in determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.

TITLE V—STUDENTS AND MANAGEMENT TRAINEES

Section 501. Students and management trainees

Section 14 of the present law allows the Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, to permit the employment at below minimum wages of full-time students outside of their school hours in any retail or service establishment, but only if the employment is not of the type ordinarily given to a full-time employee. The bill, in this section, strikes out this provision, and inserts a new subsection (b), relating to employment of students in retail or service establishments. New subsections are also added to section 14, relating to employment of students in agriculture, employment of management trainees, and employment of persons under the age of 21 who are beginning their employment career.

Under the new subsection (b) the Secretary, is required, to the extent necessary in order to prevent curtailment of opportunities for employment, to permit employment of full-time students at not less than 85 percent of the minimum wage applicable under section 6 on a part-time basis in retail or service establishments (but not for more than 20 hours in any week) or on a part-time or full-time basis in such establishments during school vacations, under special certificates issued pursuant to regulations of the Secretary. These provisions will apply to all students regardless of age but will require compliance with applicable child labor laws. There is a further provision limiting the number of student hours of employment in any single establishment. Under this provision the proportion of student hours of employment to total hours of employment of all employees in the establishment may not exceed such proportion for the corresponding month of the 12-month period preceding May 1, 1961. In the case of a retail or service establishment newly brought under coverage, such proportion may not exceed such proportion for the corresponding month of the

12-month period immediately preceding February 1, 1967. In the case of a retail or service establishment which came into existence after 1961 or a retail or service establishment for which records of student hours worked are not available, such proportion cannot exceed a proportion of student hours of employment to total hours of employment of all employees based on the practice during the 12-month period preceding May 1, 1961, in similar establishments of the same employer in the same area or other establishments of the same general character operating in the same area. Before the Secretary may issue a certificate under this provision he must find that the employment of the students will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under this provision.

The Secretary is also directed to permit, by certificate or order, the employment of full-time students in agriculture on a part-time basis (not exceeding 20 hours a week) or on a full-time basis during school vacations at a wage rate not less than 85 percent of the minimum wage applicable under section 6. As in the case of the preceding provision, no regard will be paid to age, but applicable child labor laws must be complied with. Again, before the Secretary may issue a certificate he must find that the employment will not create a substantial probability of reducing full-time employment of other persons.

This section also provides in a new subsection (d) that the Secretary must issue regulations or orders providing that retail or service establishments may employ management trainees without paying such trainees the overtime compensation provided for by section 7 for a period which may not exceed 18 months if they are being trained for employment in a bona fide executive or administrative capacity. No more than 1 management trainee shall be permitted in a retail or service establishment where there are 50 employees or less. Where there are more than 50 employees in such establishment the number of management trainees permitted shall not exceed 1 plus 3 percent of the number of the employees in the establishment in excess of 50. To be eligible for this exemption from overtime the management trainee must receive compensation for hours worked over 40 at a rate of not less than 1½ times the minimum wage rate applicable to him and he may not be employed for more than 48 hours in any workweek.

In a new subsection (e) it is provided that during the first 6 weeks of full-time employment of an individual under the age of 21 the minimum wage rate for such employee may be 75 percent of the minimum wage rate which would otherwise apply to him. The 6-week period during which the special minimum wage rate may apply must be the first 6 weeks of full-time employment which occurs at the beginning of the employee's employment career.

TITLE VI—STATUTE OF LIMITATIONS; EFFECTIVE DATE; AND STUDY

Section 601. Statute of limitations

This section amends section 16(c) of the Act and section 6(a) of the Portal-to-Portal Act, which contain the statute of limitation applicable to the Fair Labor Standards Act and the Walsh-Healey Act and Davis-Bacon Act. The amendment provides that where a cause of action arises out of a willful violation it may be commenced within 3 years after the cause of action accrued, instead of within 2 years as is the case under the present law.

Section 602. Effective date

This section provides that the amendments made by the bill shall take effect February 1, 1967.

Section 603. Study of excessive overtime

This section directs the Secretary of Labor to begin immediately a complete study of present practices dealing with overtime payments for work in excess of 40 hours per week in industries under the Act and the extent to which such overtime work impedes the creation of new job opportunities. The Secretary will make a report to Congress of his findings with appropriate recommendations by July 1, 1967.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FAIR LABOR STANDARDS ACT OF 1938

AN ACT To provide for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Labor Standards Act of 1938."

FINDING AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce.

(b) It is hereby declared to be the policy of this Act, through the exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

(b) "Commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(c) "State" means any State of the United States or the District of Columbia or any Territory or possession of the United States.

(d) "Employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee but shall not include the United States or any State or political subdivision of a State (*except with respect to employees of a State, or a political subdivision thereof, employed (1) in a hospital, institution, or school referred to in the last sentence of subsection (r) of this section, or (2) in the operation of a railway or carrier referred to in such sentence*), or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

(e) "Employee" includes any individual employed by an employer, *except that such term shall not, for the purposes of section 3(u), include—*

(1) any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family, or

(2) any individual who is employed by an employer engaged in agriculture if such individual (A) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (B) commutes daily from his permanent residence to the farm on which he is so employed, and (C) has been employed in agriculture less than thirteen weeks during the preceding calendar year.

(f) "Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

(g) "Employ" includes to suffer or permit to work.

(h) "Industry" means a trade, business, industry, or branch thereof, or group of industries, in which individuals are gainfully employed.

(i) "Goods" means goods (including ships and marine equipment), wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof, but does not include goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof.

(j) "Produced" means produced, manufactured, mined, handled, or in any other manner worked on in any State; and for the purposes of this Act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State.

(k) "Sale" or "sell" includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

(l) "Oppressive child labor" means a condition of employment under which (1) any employee under the age of sixteen years is employed by an employer (other than a parent or a person standing in place of a parent employing his own child or a child in his custody under the age of sixteen years in an occupation other than manufacturing or mining or an occupation found by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being) in any occupation, or (2) any employee between the ages of sixteen and eighteen years is employed by an employer in any occupation which the Secretary of Labor shall find and by order declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being; but oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child labor age. The Secretary of Labor shall provide by regulation or by order that the employment of employees between the ages of fourteen and sixteen years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being.

(m) "Wage" paid to any employee includes the reasonable cost, as determined by the Secretary of Labor, to the employer of furnishing such employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by such employer to his employees: *Provided*, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further*, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee. *In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not—*

(1) *during the first two years from the effective date of the Fair Labor Standards Amendments of 1966, by an amount in excess of 35 per centum of the applicable minimum wage rate,*

(2) *during the third and fourth year from such date, by an amount in excess of 40 per centum of such rate, and*

(3) *during each year thereafter, by an amount in excess of 45 per centum of such rate,*

except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount determined

by the employer as the amount by which the wage paid him was deemed to be increased under this sentence, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount.

(n) "Resale" [, except as used in subsection (s)(1),] shall not include the sale of goods to be used in residential or farm building construction, repair, or maintenance: *Provided*, That the sale is recognized as a bona fide retail sale in the industry.

(o) HOURS WORKED.—In determining for the purposes of sections 6 and 7 the hours for which an employee is employed, there shall be excluded any time spent in changing clothes or washing at the beginning or end of each workday which was excluded from measured working time during the week involved by the express terms of or by custom or practice under a bona fide collective-bargaining agreement applicable to the particular employee.

(p) "American vessel" includes any vessel which is documented or numbered under the laws of the United States.

(q) "Secretary" means the Secretary of Labor.

(r) "Enterprise" means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor: *Provided*, That, within the meaning of this subsection, a retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not necessarily limited to, an agreement, (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments. *For purposes of this subsection, the activities performed by any person or persons—*

(1) in connection with the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally handicapped or gifted children, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit), or

(2) in connection with the operation of a street, suburban or inter-urban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), shall be deemed to be activities performed for a business purpose.

[(s) "Enterprise engaged in commerce or in the production of goods for commerce" means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

[(1) any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated and if such enterprise purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more;

[(2) any such enterprise which is engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

[(3) any establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000;

[(4) any such enterprise which is engaged in the business of construction or reconstruction, or both, if the annual gross volume from the business of such enterprise is not less than \$350,000;

[(5) any gasoline service establishment if the annual gross volume of sales of such establishment is not less than \$250,000, exclusive of excise taxes at the retail level which are separately stated:

[Provided, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce, or a part of an enterprise engaged in commerce or in the production of goods for commerce, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection, if the only employees of such establishment are the owner thereof or persons standing in the relationship of parent, spouse, or child of such owner.]

(s) *"Enterprise engaged in commerce or in the production of goods for commerce" means an enterprise which has employees engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person, and which—*

(1) *during the period February 1, 1967, through January 31, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than \$500,000 (exclusive of excise taxes at the retail level which are separately stated) or is a gasoline service establishment whose annual gross volume of sales is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated), and beginning February 1, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated);*

(2) *is engaged in laundering, cleaning, or repairing clothing or fabrics;*

(3) *is engaged in the business of construction or reconstruction, or both; or*

(4) *is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or*

defective who reside on the premises of such institution, a school for mentally handicapped or gifted children, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit). Any establishment which has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection.

(t) *"Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips.*

(u) *"Man-day" means any day during any portion of which an employee performs any agricultural labor.*

ADMINISTRATION

SEC. 4. (a) There is hereby created in the Department of Labor a Wage and Hour Division which shall be under the direction of an Administrator, to be known as the Administrator of the Wage and Hour Division (in this Act referred to as the "Administrator"). The Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$20,000 a year.

(b) The Secretary of Labor may, subject to the civil service laws, appoint such employees as he deems necessary to carry out his functions and duties under this Act and shall fix their compensation in accordance with the Classification Act of 1949, as amended. The Secretary may establish and utilize such regional, local, or other agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed. Attorneys appointed under this section may appear for and represent the Secretary in any litigation, but all such litigation shall be subject to the direction and control of the Attorney General. In the appointment, selection, classification, and promotion of officers and employees of the Secretary, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency.

(c) The principal office of the Secretary shall be in the District of Columbia, but he or his duly authorized representative may exercise any or all of his powers in any place.

(d) The Secretary shall submit annually in January a report to the Congress covering his activities for the preceding year and including such information, data, and recommendations for further legislation in connection with the matters covered by this Act as he may find advisable. Such report shall contain an evaluation and appraisal by the Secretary of the minimum wages established by this Act, together with his recommendations to the Congress. In making such evaluation and appraisal, the Secretary shall take into consideration any changes which may have occurred in the cost of living and in productivity and the level of wages in manufacturing, the ability of employers to absorb wage increases, and such other factors as he may deem pertinent.

(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. If he determines such increased unemployment has in fact resulted, or is in fact likely to result, from such competition, he shall make a full and complete report of his findings and determinations to the President and to the Congress: *Provided*, That he may also include in such report information on the increased employment resulting from additional exports in any industry under this Act as he may determine to be pertinent to such report.

SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 5. (a) The Secretary of Labor shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged in commerce or in the production of goods for commerce or employed in any enterprise engaged in commerce or in the production of goods for commerce, or the Secretary may appoint separate industry committees to recommend the minimum rate or rates of wages to be paid under section 6 to employees therein engaged in commerce or in the production of goods for commerce or employed in any enterprise engaged in commerce or in the production of goods for commerce in particular industries. An industry committee appointed under this subsection shall be composed of residents of such island or islands where the employees with respect to whom such committee was appointed are employed and residents of the United States outside of Puerto Rico and the Virgin Islands. In determining the minimum rate or rates of wages to be paid, and in determining classifications, such industry committees shall be subject to the provisions of section 8.

(b) An industry committee shall be appointed by the Secretary without regard to any other provisions of law regarding the appointment and compensation of employees of the United States. It shall include a number of disinterested persons representing the public, one of whom the Secretary shall designate as chairman, a like number of persons representing employees in the industry, and a like number representing employers in the industry. In the appointment of the persons representing each group, the Secretary shall give due regard to the geographical regions in which the industry is carried on.

(c) Two-thirds of the members of an industry committee shall constitute a quorum, and the decision of the committee shall require a vote of not less than a majority of all its members. Members of an industry committee shall receive as compensation for their services a reasonable per diem, which the Secretary shall by rules and regulations prescribe, for each day actually spent in the work of the committee, and shall in addition be reimbursed for their necessary traveling and other expenses. The Secretary shall furnish the committee with adequate legal, stenographic, clerical, and other assistance, and shall by rules and regulations prescribe the procedure to be followed by the committee.

(d) The Secretary shall submit to an industry committee from time to time such data as he may have available on the matters referred to it, and shall cause to be brought before it in connection with such matters any witnesses who he deems material. An industry committee may summon other witnesses or call upon the Secretary to furnish additional information to aid it in its deliberations.

MINIMUM WAGES

SEC. 6. (a) Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for **[commerce wages]** *commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates—*

[(1) *not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section.***]**

(1) *not less than \$1.40 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966 and not less than \$1.60 an hour thereafter, except as otherwise provided in this section;*

(2) if such employee is a home worker in Puerto Rico or the Virgin Islands, not less than the minimum piece rate prescribed by regulation or order; or, if no such minimum piece rate is in effect, any piece rate adopted by such employer which shall yield, to the proportion or class of employees prescribed by regulation or order, not less than the applicable minimum hourly wage rate. Such minimum piece rates or employer piece rates shall be commensurate with, and shall be paid in lieu of, the minimum hourly wage rate applicable under the provisions of this section. The Secretary of Labor, or his authorized representative, shall have power to make such regulations or orders as are necessary or appropriate to carry out any of the provisions of this paragraph, including the power without limiting the generality of the foregoing, to define any operation or occupation which is performed by such home work employees in Puerto Rico or the Virgin Islands; to establish minimum piece rates for any operation or occupation so defined; to prescribe the method and procedure for ascertaining and promulgating minimum piece rates; to prescribe standards for employer piece rates, including the proportion or class of employees who shall receive not less than the minimum hourly wage rate; to define the term "home worker"; and to prescribe the conditions under which employers, agents, contractors, and subcontractors shall cause goods to be produced by home workers;

(3) if such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time. Each such committee shall have the same powers and duties

and shall apply the same standards with respect to the application of the provisions of this Act to employees employed in American Samoa as pertain to special industry committees established under section 5 with respect to employees employed in Puerto Rico or the Virgin Islands. The minimum wage rate thus established shall not exceed the rate prescribed in paragraph (1) of this subsection;

(4) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement); or

(5) if such employee is employed in agriculture, not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during the second year from such date, and not less than \$1.30 an hour thereafter.

[(b) Every employer shall pay to each of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1), (2), or (4) or by an establishment described in section 3(s) (3) or (5), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (ii) is brought within the purview of this section by the amendments made to section 13(a) of this Act by the Fair Labor Standards Amendments of 1961, wages at rates—

[(1) not less than \$1 an hour during the first three years from the effective date of such amendments; not less than \$1.15 an hour during the fourth year from such date; and not less than the rate effective under paragraph (1) of subsection (a) thereafter;

[(2) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off duty periods which are provided pursuant to the employment agreement).]

(b) Every employer shall pay to each of his employees (other than an employee to whom subsection (a)(5) applies) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this section by the amendments made to this Act by the Fair Labor Standards Amendments of 1966, wages at the following rates:

(1) not less than \$1 an hour during the first year from the effective date of such amendments,

(2) not less than \$1.15 an hour during the second year from such date,

(3) *not less than \$1.30 an hour during the third year from such date,*

(4) *not less than \$1.45 an hour during the fourth year from such date, and*

(5) *not less than \$1.60 an hour thereafter.*

(c)(1) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5 [*Provided, That (1) the following rates shall apply to any such employee to whom the rate or rates prescribed by subsection (a) would otherwise apply:*]

[(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, increased by 15 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1961 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

[(B) Beginning two years after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 10 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

[(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1961 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pur-

suant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

[(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts].

(2) *In the case of any such employee who is covered by such a wage order and to whom the rate or rates prescribed by subsection (a) would otherwise apply, the following rates shall apply:*

(A) *The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, increased by 12 per centum. Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1966 or one year from the effective date of the most recent wage order applicable to such employee therefore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.*

(B) *Beginning one year after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 16 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966.*

(3) *In the case of any such employee to whom subsection (a)(5) or subsection (b) would otherwise apply, the Secretary shall within sixty days after the effective date of the Fair Labor Standards Amendments of 1966 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 8, but not in excess of the applicable rate provided by subsection (a)(5) or subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (a)(5) or subsection (b), as the case may be. The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1966.*

[(3) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees ap-

pointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee.]

(d)(1) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: *Provided*, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.

(2) No labor organization, or its agents, representing employees of an employer having employees subject to any provisions of this section shall cause or attempt to cause such an employer to discriminate against an employee in violation of paragraph (1) of this subsection.

(3) For purposes of administration and enforcement, any amounts owing to any employee which have been withheld in violation of this subsection shall be deemed to be unpaid minimum wages or unpaid overtime compensation under this Act.

(4) As used in this subsection, the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(e) *Notwithstanding any other provision of this Act (except section 13(a)(1)), every employer providing a contract service under a contract with the United States or any subcontract thereunder shall pay to each of his employees wages at rates not less than the rates provided for in subsection (a)(1) of this section.*

MAXIMUM HOURS

SEC. 7. (a)(1) Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for [commerce for]

commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours [,] *unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed* [; and] .

[(2) No employer shall employ any of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1) or (4), or by an establishment described in section 3(s)(3), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this subsection, or (ii) is brought within the purview of this subsection by the amendments made to section 13 of this Act by the Fair Labor Standards Amendments of 1961—

[(A) for a workweek longer than forty-four hours during the third year from the effective date of the Fair Labor Standards Amendments of 1961,

[(B) for a workweek longer than forty-two hours during the fourth year from such date,

[(C) for a workweek longer than forty hours after the expiration of the fourth year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.]

(2) *No employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this subsection by the amendments made to this Act by the Fair Labor Standards Amendments of 1966—*

(A) *for a workweek longer than forty-four hours during the first year from the effective date of the Fair Labor Standards Amendments of 1966,*

(B) *for a workweek longer than forty-two hours during the second year from such date, or*

(C) *for a workweek longer than forty hours after the expiration of the second year from such date,*

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

(b) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of that specified in such subsection without paying the compensation for overtime employment prescribed therein if such employee is so employed—

(1) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand and forty hours during any period of twenty-six consecutive weeks, or

(2) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board which provides that during a specified period of fifty-two consecutive weeks the employee shall be employed not more than two thousand two hundred and forty hours and shall be guaranteed not less than one thousand

eight hundred and forty hours (or not less than forty-six weeks at the normal number of hours worked per week, but not less than thirty hours per week) and not more than two thousand and eighty hours of employment for which he shall receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of the maximum workweek applicable to such employee under subsection (a) or two thousand and eighty in such period at rates not less than one and one-half times the regular rate at which he is employed; or

[(3) for a period or periods of not more than fourteen workweeks in the aggregate in any calendar year in an industry found by the Secretary of Labor to be of a seasonal nature,]

(3) *by an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if—*

(A) *the annual gross volume of sales of such enterprise is less than \$1,000,000 exclusive of excise taxes,*

(B) *more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and*

(C) *not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale,*

and such employee receives compensation for employment in excess of forty hours in any workweek at a rate not less than one and one-half times the minimum wage rate applicable to him under section 6, and if such employee receives compensation for employment in excess of twelve hours in any workday, or for employment in excess of fifty-six hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

[(c) In the case of an employer engaged in the first processing of milk, buttermilk, whey, skimmed milk, or cream into dairy products, or in the ginning and compressing of cotton, or in the processing of cottonseed, or in the processing of sugar beets, sugar beet molasses, sugarcane, or maple sap, into sugar (but not refined sugar) or into sirup, the provisions of subsection (a) shall not apply to his employees in any place of employment where he is so engaged; and in the case of an employer engaged in the first processing of, or in canning or packing, perishable or seasonal fresh fruits or vegetables, or in the first processing, within the area of production (as defined by the Secretary), of any agricultural or horticultural commodity during seasonal operations, or in handling, slaughtering, or dressing poultry or livestock, the provisions of subsection (a), during a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, shall not apply to his employees in any place of employment where he is so engaged.]

(c) *For a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection if such employee (1) is employed by such employer in an industry (other than an industry described in subsection (d)) found by the Secretary to*

be of a seasonal nature, and (2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment by such employer in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

(d) For a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection, if such employee—

(1) is employed by such employer in an enterprise which is in an industry found by the Secretary—

(A) to be characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of agricultural or horticultural commodities from farms if such industry is engaged in the handling, packing, preparing, storing, first processing, or canning of any highly perishable agricultural or horticultural commodities in their raw or natural state, or

(B) to be of a seasonal nature and engaged in the handling, packing, storing, preparing, first processing, or canning of any highly perishable agricultural or horticultural commodities in their raw or natural state, and

(2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

[(d)] (e) As used in this section the "regular rate" at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf of, the employee, but shall not be deemed to include—

(1) sums paid as gifts; payments in the nature of gifts made at Christmas time or on other special occasions, as a reward for service, the amounts of which are not measured by or dependent on hours worked, production, of efficiency;

(2) payments made for occasional periods when no work is performed due to vacation, holiday, illness, failure of the employer to provide sufficient work, or other similar cause; reasonable payments for traveling expenses, or other expenses, incurred by an employee in the furtherance of his employer's interest and properly reimbursable by the employer; and other similar payments to an employee which are not made as compensation for his hours of employment;

(3) sums paid in recognition of services performed during a given period if either, (a) both the fact that payment is to be made and the amount of the payment are determined at the sole discretion of the employer at or near the end of the period and not pursuant to any prior contract, agreement, or promise causing the employee to expect such payments regularly; or (b) the payments are made pursuant to a bona fide profit-sharing plan or trust or bona fide thrift or savings plan, meeting the requirements of the Secretary of Labor set forth in appropriate regulation which he shall issue, having due regard among other relevant factors, to the extent to which the amounts paid to the employee are determined

without regard to hours of work, production, or efficiency; or (c) the payments are talent fees (as such talent fees are defined and delimited by regulations of the Secretary) paid to performers, including announcers, on radio and television programs;

(4) contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for providing old-age, retirement, life, accident, or health insurance or similar benefits for employees;

(5) extra compensation provided by a premium rate paid for certain hours worked by the employee in any day or workweek because such hours are hours worked in excess of eight in a day or in excess of the maximum workweek applicable to such employee under subsection (a) or in excess of the employee's normal working hours or regular working hours, as the case may be;

(6) extra compensation provided by a premium rate paid for work by the employee on Saturdays, Sundays, holidays, or regular days of rest, or on the sixth or seventh day of the workweek, where such premium rate is not less than one and one-half times the rate established in good faith for like work performed in nonovertime hours on other days; or

(7) extra compensation provided by a premium rate paid to the employee, in pursuance of an applicable employment contract or collective-bargaining agreement, for work outside of the hours established in good faith by the contract or agreement as the basic, normal, or regular workday (not exceeding eight hours) or workweek (not exceeding the maximum workweek applicable to such employee under subsection (a)), where such premium rate is not less than one and one-half times the rate established in good faith by the contract or agreement for like work performed during such workday or workweek.

[(e)] (f) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under subsection (a) if such employee is employed pursuant to a bona fide individual contract, or pursuant to an agreement made as a result of collective bargaining by representatives of employees, if the duties of such employee necessitate irregular hours of work, and the contract or agreement (1) specifies a regular rate of pay of not less than the minimum hourly rate provided in subsection (a) or (b) of section 6 (whichever may be applicable) and compensation at not less than one and one-half times such rate for all hours worked in excess of such maximum workweek, and (2) provides a weekly guaranty of pay for not more than sixty hours based on the rates so specified.

[(f)] (g) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under such subsection if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, the amount paid to the employee for the number of hours worked by him in such workweek in excess of the maximum workweek applicable to such employee under such subsection—

(1) in the case of an employee employed at piece rates, is computed at piece rates not less than one and one-half times the bona fide piece rates applicable to the same work when performed during nonovertime hours; or

(2) in the case of an employee performing two or more kinds of work for which different hourly or piece rates have been established, is computed at rates not less than one and one-half times such bona fide rates applicable to the same work when performed during nonovertime hours; or

(3) is computed at a rate not less than one and one-half times the rate established by such agreement or understanding as the basic rate to be used in computing overtime compensation thereunder: *Provided*, That the rate so established shall be authorized by regulation by the Secretary of Labor as being substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time;

and if (i) the employee's average hourly earnings for the workweek exclusive of payments described in paragraphs (1) through (7) of subsection [(d)](e) are not less than the minimum hourly rate required by applicable law, and (ii) extra overtime compensation is properly computed and paid on other forms of additional pay required to be included in computing the regular rate.

[(g)](h) Extra compensation paid as described in paragraphs (5), (6), and (7) of subsection [(d)](e) shall be creditable toward overtime compensation payable pursuant to this section.

[(h)](i) No employer shall be deemed to have violated subsection (a) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if (1) the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable to him under section 6, and (2) more than half his compensation for a representative period (not less than one month) represents commissions on goods or services. *In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.*

WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 8. (a) The policy of this Act with respect to industries or enterprises in Puerto Rico and the Virgin Islands engaged in commerce or in the production of goods for commerce is to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed in paragraph (1) of section 6(a) in each such industry. The Secretary of Labor shall from time to time convene an industry committee or committees, appointed pursuant to section 5, and any such industry committee shall from time to time recommend the minimum rate or rates of wages to be paid under section 6 by employers in Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce in any such industry or classifications therein. Minimum rates of wages established in accordance with this section which are not equal to the minimum wage rate prescribed in paragraph (1) of section 6(a) shall be reviewed by such a committee once during each biennial period, beginning with the biennial period commencing July 1, 1958, except

that the Secretary, in his discretion, may order an additional review during any such biennial period.

(b) Upon the convening of any such industry committee, the Secretary shall refer to it the question of the minimum wage rate or rates to be fixed for such industry. The industry committee shall investigate conditions in the industry and the committee, or any authorized subcommittee thereof, shall after due notice hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under this Act. The committee shall recommend to the Secretary the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico or in the Virgin Islands a competitive advantage over any industry in the United States outside of Puerto Rico and the Virgin Islands.

(c) The industry committee shall recommend such reasonable classifications within any industry as it determines to be necessary for the purpose of fixing for each classification within such industry the highest minimum wage rate (not in excess of that prescribed in paragraph (1) of section 6(a)) which (1) will not substantially curtail employment in such classification and (2) will not give a competitive advantage to any group in the industry, and shall recommend for each classification in the industry the highest minimum wage rate which the committee determines will not substantially curtail employment in such classification. In determining whether such classifications should be made in any industry, in making such classifications, and in determining the minimum wage rates for such classifications, no classifications shall be made, and no minimum wage rate shall be fixed, solely on a regional basis, but the industry committee shall consider among other relevant factors the following:

- (1) competitive conditions as affected by transportation, living, and production costs;
- (2) the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and
- (3) the wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

No classification shall be made under this section on the basis of age or sex.

(d) The industry committee shall file with the Secretary a report containing its findings of fact and recommendations with respect to the matters referred to it. Upon the filing of such report, the Secretary shall publish such recommendations in the Federal Register and shall provide by order that the recommendations contained in such report shall take effect upon the expiration of 15 days after the date of such publication.

(e) Orders issued under this section shall define the industries and classifications therein to which they are to apply, and shall contain such terms and conditions as the Secretary finds necessary to carry out the purposes of such orders, to prevent the circumvention or evasion thereof, and to safeguard the minimum wage rates established therein.

(f) Due notice of any hearing provided for in this section shall be given by publication in the Federal Register and by such other means as the Secretary deems reasonably calculated to give general notice to interested persons.

ATTENDANCE OF WITNESSES

SEC. 9. For the purpose of any hearing or investigation provided for in this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U.S.C., 1934 edition, title 15, secs. 49 and 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary of Labor and the industry committees.

COURT REVIEW

SEC. 10. (a) Any person aggrieved by an order of the Secretary issued under section 8 may obtain a review of such order in the United States Court of Appeals for any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within 60 days after the entry of such order a written petition praying that the order of the Secretary be modified or set aside in whole or in part. A copy of such petition shall forthwith be transmitted by the clerk of the court to the Secretary, and there upon the Secretary shall file in the court the record of the industry committee upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order in whole or in part, so far as it is applicable to the petitioner. The review by the court shall be limited to questions of law, and findings of fact by such industry committee when supported by substantial evidence shall be conclusive. No objection to the order of the Secretary shall be considered by the court unless such objection shall have been urged before such industry committee or unless there were reasonable grounds for failure so to do. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence may materially affect the result of the proceeding and that there were reasonable grounds for failure to adduce such evidence in the proceedings before such industry committee, the court may order such additional evidence to be taken before an industry committee and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. Such industry committee may modify the initial findings by reason of the additional evidence so taken, and shall file with the court such modified or new findings which if supported by substantial evidence shall be conclusive, and shall also file its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the

Secretary's order. The court shall not grant any stay of the order unless the person complaining of such order shall file in court an undertaking with a surety or sureties satisfactory to the court for the payment to the employees affected by the order, in the event such order is affirmed, of the amount by which the compensation such employees are entitled to receive under the order exceeds the compensation they actually receive while such stay is in effect.

INVESTIGATIONS, INSPECTIONS, RECORDS, AND HOMEWORK REGULATIONS

SEC. 11. (a) The Secretary of Labor or his designated representatives may investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any industry subject to this Act, and may enter and inspect such places and such records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this Act, or which may aid in the enforcement of the provisions of this Act. Except as provided in section 12 and in subsection (b) of this section, the Secretary shall utilize the bureaus and divisions of the Department of Labor for all the investigations and inspections necessary under this section. Except as provided in section 12, the Secretary shall bring all actions under section 17 to restrain violations of this Act.

(b) With the consent and cooperation of State agencies charged with the administration of State labor laws, the Secretary of Labor may, for the purpose of carrying out his functions and duties under this Act, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may reimburse such State and local agencies and their employees for services rendered for such purposes.

(c) Every employer subject to any provision of this Act or of any order issued under this Act shall make, keep, and preserve such records of the persons employed by him and of the wages, hours, and other conditions and practices of employment maintained by him, and shall preserve such records for such periods of time, and shall make such reports therefrom to the Secretary as he shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this Act or the regulations or orders thereunder.

(d) The Secretary is authorized to make such regulations and orders regulating, restricting, or prohibiting industrial homework as are necessary or appropriate to prevent the circumvention or evasion of and to safeguard the minimum wage rate prescribed in this Act, and all existing regulations or orders of the Administrator relating to industrial homework are hereby continued in full force and effect.

CHILD LABOR PROVISIONS

SEC. 12. (a) No producer, manufacturer, or dealer shall ship or deliver for shipment in commerce any goods produced in an establishment situated in the United States in or about which within thirty days prior to the removal of such goods therefrom any oppressive child labor has been employed: *Provided*, That any such shipment or delivery for shipment of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer,

manufacturer, or dealer that the goods were produced in compliance with the requirements of this section, and who acquired such goods for value without notice of any such violation, shall not be deemed prohibited by this subsection: *And provided further*, That a prosecution and conviction of a defendant for the shipment or delivery for shipment of any goods under the conditions herein prohibited shall be a bar to any further prosecution against the same defendant for shipments or deliveries for shipment of any such goods before the beginning of said prosecution.

(b) The Secretary of Labor, or any of his authorized representatives, shall make all investigations and inspections under section 11(a) with respect to the employment of minors, and, subject to the direction and control of the Attorney General, shall bring all actions under section 17 to enjoin any act or practice which is unlawful by reason of the existence of oppressive child labor, and shall administer all other provisions of this Act relating to oppressive child labor.

(c) No employer shall employ any oppressive child labor in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce.

EXEMPTIONS

SEC. 13. (a) The provisions of sections 6 and 7 shall not apply with respect to—

(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or

[(2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, if such establishment—

[(i) is not in an enterprise described in section 3(s), or

[(ii) is in such an enterprise and is a hotel, motel, restaurant, or motion picture theater; or is an amusement or recreational establishment that operates on a seasonable basis, or

[(iii) is in such an enterprise and is a hospital, or an institution which is primarily engaged in the care of the sick, the aged, the mentally ill or defective, residing on the premises of such institution, or a school for physically or mentally handicapped or gifted children, or

[(iv) is in such an enterprise and has an annual dollar volume of sales (exclusive of excise taxes at the retail level which are separately stated) which is less than \$250,000.]

(2) *any employee employed by any retail or service establishment (except an establishment or employee engaged in laundering, cleaning,*

or repairing clothing or fabrics or an establishment engaged in the operation of a hospital, institution, or school described in section 3(s)(4)), if more than 50 per centum of such establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, and such establishment is not in an enterprise described in section 3(s) or such establishment has an annual dollar volume of sales which is less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated). A "retail or service establishment" shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or

[(3) any employee employed by any establishment engaged in laundering, cleaning, or repairing clothing or fabrics, more than 50 per centum of which establishment's annual dollar volume of sales of such services is made within the State in which the establishment is located: *Provided*, That 75 per centum of such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, or communications business; or]

(3) any employee employed by an establishment which is an amusement or recreational establishment, if (A) it does not operate for more than seven months in any calendar year, or (B) during the preceding calendar year its average receipts for any six months of such year were not more than 33½ per centum of its average receipts for the other six months of such year; or

*(4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided*, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or*

(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee; or

[(6) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a sharecrop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or]

(6) any employee employed in agriculture (A) if such employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred man-days of agricultural labor, or (B) if such employee is the parent, spouse, child, or other member of the employer's immediate family; or

(7) any employee to the extent that such employee is exempted by regulations [or order], *order, or certificate* of the Secretary issued under section 14; or

(8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where [printed and] published or counties contiguous thereto; or

[(9) any employee of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, not in an enterprise described in section 3(s)(2); or]

(9) any employee employed by an establishment which is a motion picture theater; or

[(10) any individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or]

[(11)] (10) any switchboard operator employed by an independently owned public telephone company which has not more than seven hundred and fifty stations; or

[(12) any employee of an employer engaged in the business of operating taxicabs; or]

[(13)] (11) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or

[(14)] (12) any employee employed as a seaman on a vessel other than an American vessel; or

[(15)] (13) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed [twelve] *eight*; or

[(16) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (A) is primarily employed during his workweek in agriculture by such farmer, and (B) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a)(1); or

[(17) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm: *Provided*, That no more than five employees are employed in the establishment in such operations; or

[(18) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities; or

[(19) any employee of a retail or service establishment which is primarily engaged in the business of selling automobiles, trucks, or farm implements; or

[(20) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs; or]

[(21)] (14) any agricultural employee employed in the growing and harvesting of shade-grown tobacco who is engaged in the processing (including, but not limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling) of such tobacco, prior to the stemming process, for use as cigar wrapper tobacco[; or].

[(22) any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables.]

(b) The provisions of section 7 shall not apply with respect to—

(1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

(2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or

(3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

(4) any employee employed in the canning, processing, marketing, freezing, curing, storing, packing for shipment, or distributing of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or

(5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

(6) any employee employed as a seaman; or

[(7) any employee of a street, suburban or interurban electric railway, or local trolley or motorbus carrier; or]

(7) any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency; or

[(8) any employee of a gasoline service station; or]

(8) any employee employed by an establishment which is a hotel, motel, or restaurant; or

(9) any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located (A) in a city or town of one hundred thousand population or less, according to the latest available decennial

census figures as compiled by the Bureau of the Census, except where such city or town is part of a standard metropolitan statistical area, as defined and designated by the Bureau of the Budget, which has a total population in excess of one hundred thousand, or (B) in a city or town of twenty-five thousand population or less, which is part of such an area but is at least 40 airline miles from the principal city in such area; or

[(10) any employee of an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if (A) the annual gross volume of sales of such enterprise is not more than \$1,000,000 exclusive of excise taxes, and (B) more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and (C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale; or]

(10) any salesman, mechanic, or partsman employed by an establishment which is primarily engaged in the business of selling automobiles, trucks, or farm implements to the ultimate purchaser, and any salesman, mechanic, or flight personnel employed by a nonmanufacturing establishment which is primarily engaged in selling aircraft; or

(11) any employee employed as a driver or drivers' helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Secretary shall find that such plan has the general purpose and effect of reducing hours worked by such employees to, or below, the maximum workweek applicable to them under section 7(a)[.]; or

(12) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

(13) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (A) is primarily employed during his workweek in agriculture by such farmer, and (B) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a)(1); or

(14) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed in the establishment in such operations; or

(15) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities; or

(16) *any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables; or*

(17) *any driver employed by an employer engaged in the business of operating taxicabs; or*

(18) *any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs.*

(c) The provisions of section 12 relating to child labor shall not apply with respect to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, or to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions.

(d) The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer or to any homemaker engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths).

(e) The provisions of section 7 shall not apply with respect to employees for whom the Secretary of Labor is authorized to establish minimum wage rates as provided in section 6(a)(3), except with respect to employees for whom such rates are in effect; and with respect to such employees the Secretary may make rules and regulations providing reasonable limitations and allowing reasonable variations, tolerances, and exemptions to and from any or all of the provisions of section 7 if he shall find, after a public hearing on the matter, and taking into account the factors set forth in section 6(a)(3), that economic conditions warrant such action.

(f) The provisions of sections 6, 7, 11, and 12 shall not apply with respect to any employee whose services during the workweek are performed in a workplace within a foreign country or within territory under the jurisdiction of the United States other than the following: a State of the United States; the District of Columbia; Puerto Rico; the Virgin Islands; outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (ch. 345, 67 Stat. 462); American Samoa; Guam; Wake Island; [and the Canal Zone.] *Eniwetok Atoll; Kwajalein Atoll; Johnston Island; and the Canal Zone.*

LEARNERS, APPRENTICES, AND HANDICAPPED WORKERS;
STUDENTS; AND MANAGEMENT TRAINEES

SEC. 14. (a) The Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for (1) the employment of learners, of apprentices, *and* of messengers employed primarily in delivering letters and messages [, and of full-time students outside of their school

hours in any retail or service establishment: *Provided*, That such employment is not of the type ordinarily given to a full-time employee], under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe, and (2) the employment of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, under special certificates issued by the Secretary, at such wages lower than the minimum wage applicable under section 6 and for such period as shall be fixed in such certificates.

(b) *The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment of full-time students, regardless of age but in compliance with applicable child labor laws, on a part-time basis in retail or service establishments (not to exceed twenty hours in any workweek) or on a part-time or a full-time basis in such establishments during school vacations, under special certificates issued pursuant to regulations of the Secretary, at a wage rate not less than 85 per centum of the minimum wage applicable under section 6, except that the proportion of student hours of employment to total hours of employment of all employees in any establishment may not exceed (1) such proportion for the corresponding month of the twelve-month period preceding May 1, 1961, (2) in the case of a retail or service establishment whose employees (other than employees engaged in commerce or in the production of goods for commerce) are covered by this Act for the first time on or after the effective date of the Fair Labor Standards Amendments of 1966, such proportion for the corresponding month of the twelve-month period immediately prior to such date, or (3) in the case of a retail or service establishment coming into existence after May 1, 1961, or a retail or service establishment for which records of student hours worked are not available, a proportion of student hours of employment to total hours of employment of all employees based on the practice during the twelve-month period preceding May 1, 1961, in (A) similar establishments of the same employer in the same general metropolitan area in which the new establishment is located, (B) similar establishments of the same employer in the same or nearby counties if the new establishment is not in a metropolitan area, or (C) other establishments of the same general character operating in the community or the nearest comparable community. Before the Secretary may issue a certificate under this subsection he must find that such employment will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under this subsection.*

(c) *The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by certificate or order provide for the employment of full-time students, regardless of age but in compliance with applicable child labor laws, on a part-time basis in agriculture (not to exceed twenty hours in any workweek) or on a part-time or a full-time basis in agriculture during school vacations, at a wage rate not less than 85 per centum of the minimum wage applicable under section 6. Before the Secretary may issue a certificate or order under this subsection he must find that such employment will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under this subsection.*

(d) *The Secretary shall by regulation or by order provide that retail or service establishments may employ management trainees, under special certificates issued pursuant to regulations of the Secretary, without paying such trainees the overtime compensation provided for by section 7 for a period which shall not exceed eighteen months, if such trainees are being trained for employment in a bona fide executive or administrative capacity as defined by the Secretary under section 13(a)(1). In the case of any retail or service establishment, no such special certificate shall be in effect—*

(1) where there are fifty employees or less in such establishment, with respect to more than one management trainee, or

(2) where there are more than fifty employees in such establishment, with respect to more than a number of such trainees which is equal to 3 per centum of the number of employees in such establishment in excess of 50 (rounded to the next lowest whole number), plus one, or

(3) where such management trainees received compensation for hours worked over forty in any workweek at a rate less than one and one-half times the minimum wage rate applicable to such employees under section 6, or

(4) where such management trainees are employed for more than forty-eight hours in any workweek.

(e) Nothing in this Act shall require any employer to pay in excess of 75 per centum of the applicable minimum wage prescribed by section 6 to any employee, under the age of twenty one years, during the first 6 weeks of full-time employment of such employee's employment career.

PROHIBITED ACTS

SEC. 15. (a) After the expiration of one hundred and twenty days from the date of enactment of this Act, it shall be unlawful for any person—

(1) to transport, offer for transportation, ship, deliver, or sell in commerce, or to ship, deliver, or sell with knowledge that shipment or delivery or sale thereof in commerce is intended, any goods in the production of which any employee was employed in violation of section 6 or section 7, or in violation of any regulation or order of the Secretary of Labor issued under section 14; except that no provision of this Act shall impose any liability upon any common carrier for the transportation in commerce in the regular course of its business of any goods not produced by such common carrier, and no provision of this Act shall excuse any common carrier from its obligation to accept any goods for transportation; and except that any such transportation, offer, shipment, delivery, or sale of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer that the goods were produced in compliance with the requirements of the Act, and who acquired such goods for value without notice of any such violation, shall not be deemed unlawful;

(2) to violate any of the provisions of section 6 or section 7, or any of the provisions of any regulation or order of the Secretary issued under section 14;

(3) to discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any

such proceeding, or has served or is about to serve on an industry committee;

(4) to violate any of the provisions of section 12;

(5) to violate any of the provisions of section 11(c) or any regulation or order made or continued in effect under the provisions of section 11(d), or to make any statement, report, or record filed or kept pursuant to the provisions of such section or of any regulation or order thereunder, knowing such statement, report, or record to be false in a material respect.

(b) For the purposes of subsection (a)(1) proof that any employee was employed in any place of employment where goods shipped or sold in commerce were produced, within ninety days prior to the removal of the goods from such place of employment, shall be prima facie evidence that such employee was engaged in the production of such goods.

PENALTIES

SEC. 16. (a) Any person who willfully violates any of the provisions of section 15 shall upon conviction thereof be subject to a fine of not more than \$10,000, or to imprisonment for not more than six months, or both. No person shall be imprisoned under this subsection except for an offense committed after the conviction of such person for a prior offense under this subsection.

(b) Any employer who violates the provisions of section 6 or section 7 of this Act shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages. Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection.

(c) The Secretary of Labor is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 6 or section 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. When a written request is filed by any employee with the Secretary claiming unpaid minimum wages or unpaid overtime compensation under section 6

or section 7 of this Act, the Secretary may bring an action in any court of competent jurisdiction to recover the amount of such claim: *Provided*, That this authority to sue shall not be used by the Secretary in any case involving an issue of law which has not been settled finally by the courts, and in any such case no court shall have jurisdiction over such action or proceeding initiated or brought by the Secretary if it does involve any issue of law not so finally settled. The consent of any employee to the bringing of any such action by the Secretary, unless such action is dismissed without prejudice on motion of the Secretary, shall constitute a waiver by such employee of any right of action he may have under subsection (b) of this section for such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. Any sums thus recovered by the Secretary on behalf of an employee pursuant to this subsection shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sums not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts. In determining when an action is commenced by the Secretary under this subsection for the purposes of the [two year statute] *statutes* of limitations provided in section 6(a) of the Portal-to-Portal Act of 1947, it shall be considered to be commenced in the case of any individual claimant on the date when the complaint is filed if he is specifically named as a party plaintiff in the complaint, or if his name did not so appear, on the subsequent date on which his name is added as a party plaintiff in such action.

(d) In any action or proceeding commenced prior to, on, or after the date of enactment of this subsection, no employer shall be subject to any liability or punishment under this Act or the Portal-to-Portal Act of 1947 on account of his failure to comply with any provision or provisions of such Acts (1) with respect to work heretofore or hereafter performed in a workplace to which the exemption in section 13(f) is applicable, (2) with respect to work performed in Guam, the Canal Zone, or Wake Island before the effective date of this amendment of subsection (d), or (3) with respect to work performed in a possession named in section 6(a)(3) at any time prior to the establishment by the Secretary, as provided therein, of a minimum wage rate applicable to such work.

INJUNCTION PROCEEDINGS

SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15(a)(2) the restraint of any withholding of payment of minimum wages or overtime compensation found by the court to be due to employees under this Act (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 6 of the Portal-to-Portal Act of 1947).

RELATION TO OTHER LAWS

SEC. 18. (a) No provision of this Act or of any order thereunder shall excuse noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this Act or a maximum workweek lower than the maximum workweek established under this Act, and no provision of this Act relating to the employment of child labor shall justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established under this Act. No provision of this Act shall justify any employer in reducing a wage paid by him which is in excess of the applicable minimum wage under this Act, or justify any employer in increasing hours of employment maintained by him which are shorter than the maximum hours applicable under this Act.

(b) *Notwithstanding any other provision of this Act or any other law, any employee—*

(1) described in paragraph (7) of section 202 of the Classification Act of 1949 (5 U.S.C. 1082(7)) whose compensation is required to be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates, or

(2) employed in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces, who performed services during the workweek in a work place within the District of Columbia or a State of the United States, shall have his basic compensation fixed or adjusted at a wage rate which is not less than the appropriate wage rate provided for in section 6(a)(1) of this Act and shall have his overtime compensation set at an hourly rate not less than the overtime rate provided for in section 7(a) of this Act.

SEPARABILITY OF PROVISIONS

SEC. 19. If any provision of this Act or the application of such provision to any person or circumstances is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 6(a) OF THE PORTAL-TO-PORTAL ACT OF 1947

SEC. 6. STATUTE OF LIMITATIONS.—Any action commenced on or after the date of the enactment of this Act to enforce any cause of action for unpaid minimum wages, unpaid overtime compensation, or liquidated damages, under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act—

(a) if the cause of action accrues on or after the date of the enactment of this Act—may be commenced within two years after the cause of action accrued, and every such action shall be forever barred unless commenced within two years after the cause of action accrued, *except that a cause of action arising out of a willful violation may be commenced within three years after the cause of action accrued;*

INDIVIDUAL VIEWS OF CONGRESSMAN DAVE MARTIN, OF NEBRASKA

I want to discuss two very glaring weaknesses in H.R. 13712:

I. A drastic increase in the minimum wage to \$1.60 an hour; and

II. The inclusion of agricultural workers under coverage for the first time.

I. INCREASE IN MINIMUM WAGE RATE

The proposed increase in the minimum wage rate to \$1.60 in two steps is excessive and dangerous. There are several pertinent reasons why the increase should not go beyond \$1.50 from the present rate of \$1.25. These reasons are as follows:

1. An increase to \$1.60 an hour would substantially and dangerously exceed the administration's wage-price guidelines. The President stated:

The Congress should consider carefully the effects of higher minimum wage rates on the incomes of the employed and also on costs and prices and on job opportunities * * * particularly for the flood of teenagers anow entering our labor force.

The increase of presently covered employees as set forth in H.R. 13712 would amount to 28 percent in two steps; on newly covered employees, it would amount to 60 percent over the next 4 years. The increase from \$1.25 to \$1.40 per hour is a 12-percent increase and the increase from \$1.40 to \$1.60 is a 14-percent increase. The adverse effect on the small businessman in our smaller towns would be substantial. The increase in his operating expenses would be drastic, and could only result in price increases at the retail level, in order to continue to earn a fair and equitable net profit. President Johnson did not specifically recommend any increase in the minimum wage and I want to point out that the last step of the increase from the 1961 law only went into effect on September 3, 1965.

A story in the Wall Street Journal of September 7, 1965, illustrates most vividly the effect of the last increase in the minimum wage on one small segment of our economy.

The 18 packing plants that make up the fresh crab meat industry in North Carolina closed rather than raise the pay of 1,800 pickers, nearly all women, to the \$1.25 minimum. "It's been tough for a long time—this was the straw that broke our backs," a packing plant owner says.

2. The above 28-percent increase for presently covered employees in two steps and a 60-percent increase over the next 4 years for newly covered employees will have to be reflected in both increased operating costs and in the prices which the public has to pay for goods and services offered. This conflicts with the President's recommendation in which he cautioned the Congress to consider carefully the effects.

3. Job opportunities will be decreased by this bill, where there is the most need of assistance—the persistence of unemployment among youthful workers and among the unskilled and untrained groups.

According to the U.S. Bureau of Labor Statistics, the unemployment rate this spring among teenagers approximated 12 to 13 percent. On the other hand, the unemployment rate among adult males was only about 2 percent.

The President cautioned about the adverse effects of a new minimum wage law on the “* * * flood of teenagers now entering our labor force.” Consequently, it is self-evident that total unemployment figures without an analysis as to what they represent mean little. It is also evident that this legislation does not strike at the root of the problem, but will simply compound it. Hundreds of thousands of teenagers work, in agriculture during the summer vacation period. In determining coverage for agricultural workers, the bill excludes those workers who are paid on a piece-rate basis in computing man-days worked. All other summer agricultural workers are included for purposes of this determination. The effect will be to grant an exemption to those employers hiring piece-rate workers. This is completely unfair and will jeopardize the opportunity of thousands of young people to earn a few dollars during thie summer vacations.

Will this type of legislation cure the large unemployment which exists among teenagers? Will it offer more jobs for those seeking work on a part-time basis, or for married women whose husbands are currently employed? Not a single witness made the point or proved the point that an increase in the minimum wage would create one single additional job in the entire country. In fact, witness after witness testified that it would decrease total jobs available because it would force employers to automate in self-defense and would increase costs.

Further, the witnesses on this legislation testified that without a doubt there was a great shortage in the United States of skilled workers who are already receiving wages far above the requirements of this bill. This legislation will not do one thing toward making an unskilled worker a skilled worker and alleviating the great shortage which exists in this area. The net result of this bill will be undue hardship and serious consequences for those businesses currently covered as well as those that will be newly covered. The increase of the minimum wage rate to \$1.60 per hour is completely unrealistic, impractical, and will deal a devastating blow to the small businessman in this country. I propose to offer an amendment on the floor to increase the minimum wage in two steps: first to \$1.35 and then to \$1.50.

II. AGRICULTURAL WORKERS

1. Agricultural workers under the terms of this bill would be included under the minimum wage law for the first time. This is a completely new concept as they are not engaged in interstate commerce. Coverage of a retail business is based on volume of sales—currently \$1 million or more a year. Under H.R. 13712, this will be reduced to \$500,000 and in 2 years to \$250,000. In other words, the enterprise which does less than \$250,000 in sales per year will not be subject to the act, nor will an establishment of an enterprise if it does less than \$250,000.

Yet we have a formula for farmers and those engaged in agriculture based on total work of 500 man-days per quarter. If a man works 25 days a month on a farm, this is 75 days per quarter and seven men would exceed the 500 man-days. His total volume in sales might be only \$20,000 to \$25,000 per year but, yet, as the bill is written, he would come under its provisions. This is not fair nor is it equitable. The wage rates for agricultural employees in this bill provide for a minimum of \$1 per hour beginning February 1, 1967, and \$1.15 beginning February 1, 1968, and \$1.30 beginning February 1, 1969, if 500 man-days of work are performed per quarter.

2. Enforcement: Due to the fact that there are several million farms and ranches throughout the entire country in out-of-the-way places, enforcement will be most difficult. It will require a large army of investigators to cover all of those who would be affected by the provisions of this act.

3. The agricultural economy is currently in dire economic straits. This coverage will add to the dilemma and by increasing costs and decreasing net profit will further accelerate the movement off of the farm.

4. It is entirely unfair and unrealistic to set one standard of coverage for those in the retail field and in service industries, and a different standard for those in agriculture.

5. The practical effects of this legislation on agriculture will be chaotic, as the bill is completely unclear as to whether a tenant farmer or a sharecropper is covered. Both of these people normally work on a percentage of the crop, and it will be practically impossible to correlate their earnings against the total number of hours worked and the minimum wage. Inclusion of agricultural workers under the minimum wage law is not based on the practical conditions which exist in farming. This section of the bill should be removed, and I intend to offer such an amendment.

The argument is now used by the proponents of this legislation that the current wage rates do not produce sufficient income to get out of the poverty classification. This is a completely new and spurious argument that the Fair Labor Standards Act is tied in with the poverty program. The proposed schedule of minimum wage increases makes a mockery of anti-inflation wage-price guidelines. Most serious of all, however, is the use of the Fair Labor Standards Act as a gigantic labor negotiation with the president of the AFL-CIO—a contract agreement of 35 cents per hour for 30 million workers and 60 cents per hour for 6 million more. The rippling effect of the proposed minimum wage rates will take several years to mature. The potential cost to the Nation exceeds \$28 billion a year.

The inclusion of hospitals under the provisions of the Fair Labor Standards Act, plus the application of overtime to hospital employees, will substantially and drastically increase the cost of hospital rooms to millions of Americans. Certainly with overtime penalties excluded from hotel and motel employees, hospitals are entitled to this same consideration, and I intend to offer such an amendment.

Another adverse effect of this will be that the cost of the medicare program enacted last year will be greatly increased and the projections given to the country as to its cost will be thrown out of kilter.

The Congress does not create more jobs through legislative action. Additional jobs are created only by private enterprise working through our free enterprise system. The net result of this legislation could be fewer jobs and it would accelerate the demise of our small businessman and our small towns throughout the country.

DAVE MARTIN,
Member of Congress.

INDIVIDUAL VIEWS OF CONGRESSMAN GLENN ANDREWS OF ALABAMA

H.R. 13712 tempers somewhat the radical Roosevelt minimum wage bill passed last August by the Education and Labor Committee. The drastic and unconscionable plan in the Roosevelt bill to phase out substantial segments of small agriculture by the imposition of an impossible minimum wage has been somewhat modified.

Notwithstanding these and other agreeable changes, the bill is still filled with inequities, injustices, and hardships, indigenous to the new concept of minimum wages. This new concept was introduced in the 1961 minimum wage bill when minimum wages were extended beyond the great "interstate industries" toward the smaller and more local businesses. The present bill is a significant advance toward universal minimum wage coverage, a practice already indulged in by the Secretary of Labor, who, today, appoints 65 complete control boards to set minimum wages (even to rates for various job classifications) in 65 different types of Puerto Rican businesses.

I bring the following aspects of this bill to the attention of my colleagues. They may possibly assess them more critically than I.

1. The inflationary thrust of a 28-percent pay raise to the bottom millions of workers. This will set off a corresponding phase upward in the wages of the entire rest of the work force in America.

2. The unemployment resulting from a \$14 a week pay raise ultimately extending to all employees in marginal businesses which are unable to pass the increased wage cost along to the public by a price boost. If the price boost is possible, inflation is thereby compounded.

3. The automation that a weekly pay raise of \$14 would buy. Automation is inevitable, of course, where there is an advantage; but, automation in the private sector should be strictly a private matter. Government has no right to accelerate automation.

4. The effect on imports and exports as long as wages in Europe and Japan are beyond the reach of H.R. 13712, and as long as our tariff arrangements invite the flooding of our domestic markets with cheaply made foreign goods.

I particularly oppose this bill on the basis of discrimination against low-income States. The special treatment given Puerto Rico and the dispensation given agricultural labor both acknowledge that this legislation presages unemployment. Variations in income make a uniform wage law throughout the Nation unfair to low-income regions.

That the Department of Labor has been unable in the past to find appreciable unemployment as a result of minimum wages is a specious argument. First of all, minimum wages have been applied in the past primarily to large industries which (with national distribution) were able to pass the increased labor cost on to the public or the consumer all over America. This argument is not strengthened when such findings have been made by a Department of Labor committed to the minimum wage principle. The conclusion that little unemployment has resulted from minimum wages ignores what should be obvious to all; namely, that minimum wages could very well preclude

the creation of additional jobs. There would be no way of measuring this factor. This speculation offers no real challenge, however, to commonsense.

I find the proposed minimum wage law in contravention to the expressed intent (which I have commended) of the war on poverty, manpower redevelopment, vocational rehabilitation, and a host of other measures professed to be designed to eliminate unemployment. I find it impossible to reconcile these important directions being taken by the National Government with statements made by the proponents of minimum wages. I quote George Meany testifying before a Senate committee on minimum wages in 1961: "If his (employer) profit depended on paying less than a minimum wage, then I say he shouldn't be in business." And Sydney Zagri, of the Teamsters Union, testifying recently before my subcommittee, said: "Of course there are certain marginal operations that should not be permitted simply to continue to exist."

I reject unequivocally the proposition that closing all marginal businesses will add to the economic health of the Nation. Many members of my committee have admitted, in fact argued, that a decent wage in one section of the country may not be a decent wage in another.

I cannot escape the real thrust of this proposed legislation. It iterates the argument repeated so often in the Taft-Hartley debate: "Do not let them pirate our industries." If this be the real intent of this bill, let it come down, but let us be spared from the cynical claim that this bill would help the poor or the low-income states; the exact opposite is true.

The test of a good minimum wage should be whether or not the increased labor cost in severe cases can be passed along to the public or consumer. Agriculture is unable, in many cases, to pass along any increased costs; the price of its produce is already pegged above a normal market by Government. Restaurants, perennially "marginal" in most communities, are unable to pass along meals at New York prices to low-income customers. If these costs become New York costs, the only alternative is closing.

Early minimum wages (where Government first began interfering with individual freedom of contract) were sustained by the courts because the employee often stood at a disadvantage before the employer, who tended to exploit his advantage. In these days of manpower training, of high mobility of labor, and of improved communication, pockets of exploitation have been already virtually eliminated by a free society itself. The advantage now often has moved from the employer to the employee; the need for minimum wages has, under these circumstances, diminished. Prevailing local wage rates "get around" quickly, and prospective workers decline jobs that do not pay properly.

Leon Keyserling stated recently that jobs are the only route for the poor to escape poverty. Let us not wipe out all of these "marginal businesses" in the low-income States at one time with, of course, the jobs which go along with them. I hold with my Puerto Rican friends that the "lowest paying job in the world is no job."

GLENN ANDREWS,
Member of Congress.

89TH CONGRESS
2D SESSION

H. R. 13712

[Report No. 1366]

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 1966

Mr. DENT introduced the following bill; which was referred to the Committee on Education and Labor

MARCH 29, 1966

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Fair Labor Standards
4 Amendments of 1966".

5 TITLE I—DEFINITIONS

6 TIPS

7 SEC. 101. (a) Section 3(m) of the Fair Labor Stand-
8 ards Act of 1938 is amended by adding at the end thereof
9 the following new sentence: "In determining the wage of

1 a tipped employee, the amount paid such employee by his
2 employer shall be deemed to be increased on account of tips
3 by an amount determined by the employer, but not—

4 “(1) during the first two years from the effective
5 date of the Fair Labor Standards Amendments of 1966,
6 by an amount in excess of 35 per centum of the applica-
7 ble minimum wage rate.

8 “(2) during the third and fourth year from such
9 date, by an amount in excess of 40 per centum of such
10 rate, and

11 “(3) during each year thereafter, by an amount
12 in excess of 45 per centum of such rate,
13 except that in the case of an employee who (either himself
14 or acting through his representative) shows to the satisfac-
15 tion of the Secretary that the actual amount of tips received
16 by him was less than the amount determined by the employer
17 as the amount by which the wage paid him was deemed to
18 be increased under this sentence, the amount paid such em-
19 ployee by his employer shall be deemed to have been in-
20 creased by such lesser amount.”

21 (b) Section 3 of such Act is amended by adding at the
22 end thereof the following new subsection:

23 “(t) ‘Tipped employee’ means any employee engaged
24 in an occupation in which he customarily and regularly
25 receives more than \$20 a month in tips.”

DEFINITION OF ENTERPRISE

SEC. 102. (a) Section 3(r) of such Act is amended by adding at the end thereof the following: "For purposes of this subsection, the activities performed by any person or persons—

"(1) in connection with the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally handicapped or gifted children, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit); or

"(2) in connection with the operation of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit);

shall be deemed to be activities performed for a common business purpose."

(b) Section 3(d) of such Act is amended by inserting after "of a State" the following: "(except with respect to

1 employees of a State, or a political subdivision thereof, em-
 2 ployed ~~(1)~~ in a hospital, institution, or school referred to in
 3 the last sentence of subsection ~~(r)~~ of this section, or ~~(2)~~ in
 4 the operation of a railway or carrier referred to in such
 5 sentence)”.
 6

7 ~~(c)~~ Section 3~~(s)~~ of such Act is amended to read as
 8 follows:

9 “~~(s)~~ ‘Enterprise engaged in commerce or in the pro-
 10 duction of goods for commerce’ means an enterprise which
 11 has employees engaged in commerce or in the production of
 12 goods for commerce, including employees handling, selling,
 13 or otherwise working on goods that have been moved in or
 14 produced for commerce by any person, and which—

15 “~~(1)~~ during the period February 1, 1967, through
 16 January 31, 1969, is an enterprise whose annual gross
 17 volume of sales made or business done is not less than
 18 \$500,000 (exclusive of excise taxes at the retail level
 19 which are separately stated) or is a gasoline service
 20 establishment whose annual gross volume of sales is not
 21 less than \$250,000 (exclusive of excise taxes at the
 22 retail level which are separately stated), and beginning
 23 February 1, 1969, is an enterprise whose annual gross
 24 volume of sales made or business done is not less than
 25 \$250,000 (exclusive of excise taxes at the retail level
 which are separately stated);

1 “~~(2)~~ is engaged in laundering, cleaning, or re-
2 pairing clothing or fabrics;

3 “~~(3)~~ is engaged in the business of construction
4 or reconstruction; or both; or

5 “~~(4)~~ is engaged in the operation of a hospital, an
6 institution primarily engaged in the care of the sick,
7 the aged, the mentally ill or defective who reside on the
8 premises of such institution, a school for mentally handi-
9 capped or gifted children, or an institution of higher
10 education (regardless of whether or not such hospital,
11 institution, or school is public or private or operated for
12 profit or not for profit);

13 Any establishment which has as its only regular employees
14 the owner thereof or the parent, spouse, child, or other mem-
15 ber of the immediate family of such owner shall not be con-
16 sidered to be an enterprise engaged in commerce or in the
17 production of goods for commerce or a part of such an en-
18 terprise; and the sales of such establishment shall not be
19 included for the purpose of determining the annual gross
20 volume of sales of any enterprise for the purpose of this
21 subsection.”

22 AGRICULTURAL EMPLOYEES

23 SEC. 103. (a) Section 3(e) of such Act is amended
24 to read as follows:

25 “~~(e)~~ ‘Employee’ includes any individual employed by

1 an employer, except that such term shall not, for the pur-
 2 poses of section 3(u), include—

3 “(1) any individual employed by an employer en-
 4 gaged in agriculture if such individual is the parent,
 5 spouse, child, or other member of the employer’s imme-
 6 diate family, or

7 “(2) any individual who is employed by an em-
 8 ployer engaged in agriculture if such individual (A) is
 9 employed as a hand harvest laborer and is paid on a
 10 piece rate basis in an operation which has been, and is
 11 customarily and generally recognized as having been,
 12 paid on a piece rate basis in the region of employment,
 13 (B) commutes daily from his permanent residence to
 14 the farm on which he is so employed, and (C) has been
 15 employed in agriculture less than thirteen weeks during
 16 the preceding calendar year.”

17 (b) Section 3 of such Act is further amended by add-
 18 ing after subsection (t) (added by section 101(b) of this
 19 Act) the following new subsection:

20 “(u) ‘Man-day’ means any day during any portion of
 21 which an employee performs any agricultural labor.”

TITLE II—REVISION OF EXEMPTIONS

HOTEL, RESTAURANT, AND RECREATIONAL ESTABLISH-
MENTS; HOSPITALS AND RELATED INSTITUTIONS

SEC. 201. (a) Section 13(a)(2) of such Act is amended by striking out everything preceding “A ‘retail or service establishment’” and inserting in lieu thereof the following:

“(2) any employee employed by any retail or service establishment (except an establishment or employee engaged in laundering, cleaning, or repairing clothing or fabrics or an establishment engaged in the operation of a hospital, institution, or school described in section 3(s)(4)), if more than 50 per centum of such establishment’s annual dollar volume of sales of goods or services is made within the State in which the establishment is located, and such establishment is not in an enterprise described in section 3(s) or such establishment has an annual dollar volume of sales which is less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated).”

(b)(1) Section 13(b) of such Act is amended by in-

1 serting after paragraph ~~(7)~~ the following new paragraph
 2 in lieu of the paragraph repealed by section 211 of this
 3 Act:

4 ~~“(8)~~ any employee employed by an establishment
 5 which is a hotel, motel, or restaurant; or”.

6 ~~(2)~~ Section 13(a) of such Act is amended by inserting
 7 after paragraph ~~(2)~~ the following new paragraph in lieu
 8 of the paragraph repealed by section 202 of this Act:

9 ~~“(3)~~ any employee employed by an establish-
 10 ment which is an amusement or recreational establish-
 11 ment, if ~~(A)~~ it does not operate for more than seven
 12 months in any calendar year, or ~~(B)~~ during the preced-
 13 ing calendar year, its average receipts for any six months
 14 of such year were not more than $33\frac{1}{3}$ per centum of its
 15 average receipts for the other six months of such year;
 16 or”.

17 LAUNDRY AND CLEANING ESTABLISHMENTS

18 SEC. 202. Section 13(a) ~~(3)~~ of such Act is repealed.

19 AGRICULTURAL EMPLOYEES

20 SEC. 203. (a) Section 13(a) ~~(6)~~ of such Act is
 21 amended to read as follows:

22 ~~“(6)~~ any employee employed in agriculture ~~(A)~~ if
 23 such employee is employed by an employer who did not,
 24 during any calendar quarter during the preceding
 25 calendar year, use more than five hundred man-days

1 of agricultural labor, or ~~(B)~~ if such employee is the
 2 parent, spouse, child, or other member of his employer's
 3 immediate family; or".

4 ~~(b)~~ Section 13(a)-(16) of such Act ~~(agricultural em-~~
 5 ~~ployees employed in livestock auctions)~~ is repealed.

6 ~~(c)~~ Section 13(b) of such Act is amended—

7 ~~(A)~~ by striking out the period at the end of para-
 8 graph ~~(11)~~ and inserting in lieu thereof “; or”, and

9 ~~(B)~~ by adding at the end of paragraph ~~(11)~~ the
 10 following new paragraphs:

11 “~~(12)~~ any employee employed in agriculture or in
 12 connection with the operation or maintenance of ditches,
 13 canals, reservoirs, or waterways, not owned or operated
 14 for profit, or operated on a sharecrop basis, and which
 15 are used exclusively for supply and storing of water for
 16 agricultural purposes; or

17 “~~(13)~~ any employee with respect to his employ-
 18 ment in agriculture by a farmer, notwithstanding other
 19 employment of such employee in connection with live-
 20 stock auction operations in which such farmer is engaged
 21 as an adjunct to the raising of livestock, either on his own
 22 account or in conjunction with other farmers, if such
 23 employee ~~(A)~~ is primarily employed during his work-
 24 week in agriculture by such farmer, and ~~(B)~~ is paid for

his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a)(1); or”.

AGRICULTURAL PROCESSING EMPLOYEES

SEC. 204. (a) Sections 13(a)(10) (employees engaged in handling and processing of agricultural, horticultural, and dairy products); 13(a)(17) (country elevator employees); 13(a)(18) (cotton ginning employees); and 13(a)(22) (fruit and vegetable transportation employees) of such Act are repealed.

(b) Section 13(b) of such Act is amended by adding after paragraph (13) (added by section 203(c) of this Act) the following new paragraphs:

“(14) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed in the establishment in such operations; or

“(15) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities; or

“(16) any employee engaged (A) in the transpor-

tation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or ~~(B)~~ in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables; or”.

~~(e)~~ Subsection ~~(e)~~ of section 7 of such Act is amended to read as follows:

“(e) For a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, any employer may employ any employee for a workweek in excess of that specified in subsection ~~(a)~~ without paying the compensation for overtime employment prescribed in such subsection if such employee ~~(1)~~ is employed by such employer in an industry ~~(other than an industry described in subsection (d))~~ found by the Secretary to be of a seasonal nature, and ~~(2)~~ receives compensation for employment by such employer in excess of ten hours in any workday, or for employment by such employer in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

“(d) For a period or periods of not more than four-

1 teen workweeks in the aggregate in any calendar year,
 2 any employer may employ any employee for a workweek
 3 in excess of that specified in subsection (a) without paying
 4 the compensation for overtime employment prescribed in
 5 such subsection, if such employee—

6 “(1) is employed by such employer in an enter-
 7 prise which is in an industry found by the Secretary—

8 “(A) to be characterized by marked annually
 9 recurring seasonal peaks of operation at the places
 10 of first marketing or first processing of agricul-
 11 tural or horticultural commodities from farms if
 12 such industry is engaged in the handling, packing,
 13 preparing, storing, first processing, or canning of
 14 any highly perishable agricultural or horticultural
 15 commodities in their raw or natural state, or

16 “(B) to be of a seasonal nature and engaged
 17 in the handling, packing, storing, preparing, first
 18 processing, or canning of any highly perishable
 19 agricultural or horticultural commodities in their
 20 raw or natural state, and

21 “(2) receives compensation for employment by
 22 such employer in excess of ten hours in any workday,
 23 or for employment in excess of forty-eight hours in any

workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.”

~~(d)(1)~~ Subsections ~~(d)~~, ~~(e)~~, ~~(f)~~, ~~(g)~~, and ~~(h)~~ of section 7 of such Act are redesignated as subsections ~~(e)~~, ~~(f)~~, ~~(g)~~, ~~(h)~~, and ~~(i)~~, respectively.

~~(2)~~ Subsections ~~(g)~~ and ~~(h)~~ of such section 7 (as so redesignated by paragraph ~~(1)~~ of this subsection) are each amended by striking out “subsection ~~(d)~~” and inserting in lieu thereof “subsection ~~(e)~~”.

SMALL NEWSPAPERS

SEC. 205. Section 13(a)(8) of such Act is amended by striking out “where printed and published” and inserting in lieu thereof “where published”.

TRANSPORTATION COMPANIES

SEC. 206. ~~(a)~~ Section 13(a)(9) of such Act is repealed.

~~(b)(1)~~ Section 13(a)(12) of such Act is repealed.

~~(2)~~ Section 13(b) of such Act is amended by adding after paragraph ~~(16)~~ (added by section 204(b) of this Act) the following new paragraph:

“(17) any driver employed by an employer engaged in the business of operating taxicabs; or”.

1 ~~(e)~~ Section 13(b) ~~(7)~~ of such Act is amended to read
2 as follows:

3 ~~“(7)~~ any driver, operator, or conductor employed
4 by an employer engaged in the business of operating
5 a street, suburban or interurban electric railway, or
6 local trolley or motorbus carrier, if the rates and services
7 of such railway or carrier are subject to regulation by a
8 State or local agency; or”.

9 MOTION PICTURE THEATER EMPLOYEES

10 SEC. 207. Section 13(a) of such Act is amended by
11 inserting after paragraph ~~(8)~~ the following new paragraph
12 in lieu of the paragraph repealed by section 206(a) of this
13 Act:

14 ~~“(9)~~ any employee employed by an establishment
15 which is a motion picture theater; or”.

16 LOGGING CREWS

17 SEC. 208. Section 13(a) ~~(15)~~ of such Act is amended
18 by striking out ~~“twelve”~~ and inserting in lieu thereof
19 ~~“eight”~~.

20 AUTOMOBILE, AIRCRAFT, AND FARM IMPLEMENT SALES

21 ESTABLISHMENTS

22 SEC. 209. (a) Section 13(a) ~~(19)~~ of such Act is re-
23 pealed.

24 ~~(b)~~ Section 13(b) of such Act is amended by inserting

1 after paragraph (9) the following new paragraph in lieu
2 of the paragraph repealed by section 212 of this Act:

3 “(10) any salesman or mechanic employed by an
4 establishment which is primarily engaged in the busi-
5 ness of selling automobiles or trucks to the ultimate
6 purchaser, any salesman, mechanic, or partsman em-
7 ployed by an establishment which is primarily engaged
8 in the business of selling farm implements to the ultimate
9 purchaser, and any salesman, mechanic, or flight per-
10 sonnel employed by a nonmanufacturing establishment
11 which is primarily engaged in selling aircraft; or”

12 FOOD SERVICE EMPLOYEES

13 SEC. 210. (a) Section 13(a)(20) of such Act is
14 repealed.

15 (b) Section 13(b) of such Act is amended by adding
16 after paragraph (17) (added by section 206(b)(2) of this
17 Act) the following new paragraph:

18 “(18) any employee of a retail or service estab-
19 lishment who is employed primarily in connection with
20 the preparation or offering of food or beverages for
21 human consumption, either on the premises, or by such
22 services as catering, banquet, box lunch, or curb or
23 counter service, to the public, to employees, or to mem-
24 bers or guests of members of clubs.”

1 GASOLINE SERVICE STATIONS

2 SEC. 211. Section 13(b)(8) of such Act is repealed.

3 PETROLEUM DISTRIBUTION EMPLOYEES

4 SEC. 212. (a) Section 13(b)(10) of such Act is re-
5 pealed.

6 (b) Section 7(b)(3) of such Act is amended to read
7 as follows:

8 “(3) by an independently owned and controlled
9 local enterprise (including an enterprise with more
10 than one bulk storage establishment) engaged in the
11 wholesale or bulk distribution of petroleum products if—

12 “(A) the annual gross volume of sales of such
13 enterprise is less than \$1,000,000 exclusive of excise
14 taxes;

15 “(B) more than 75 per centum of such enter-
16 prise’s annual dollar volume of sales is made within
17 the State in which such enterprise is located; and

18 “(C) not more than 25 per centum of the
19 annual dollar volume of sales of such enterprise is to
20 customers who are engaged in the bulk distribution
21 of such products for resale;

22 and such employee receives compensation for employ-
23 ment in excess of forty hours in any workweek at a rate
24 not less than one and one-half times the minimum wage
25 rate applicable to him under section 6.”

1 ENIWETOK AND KWAJALEIN ATOLLS AND JOHNSTON

2 ISLAND

3 SEC. 213. Section 13(f) of such Act is amended by
4 striking out "and the Canal Zone" and inserting in lieu
5 thereof "Eniwetok Atoll; Kwajalein Atoll; Johnston Is-
6 land; and the Canal Zone".

7 CONFORMING AMENDMENTS

8 SEC. 214. (a) Section 13(a) of such Act is amended—

9 (1) by redesignating paragraphs (11), (13),
10 (14), (15), and (21) as paragraphs (10), (11),
11 (12), (13), and (14), respectively, and

12 (2) by striking out "; or" at the end of paragraph
13 (14) (as so redesignated in this subsection) and insert-
14 ing in lieu thereof a period.

15 (b) Paragraph (7) of section 13(a) of such Act is
16 amended by striking out "or order" and inserting in lieu
17 thereof ", order, or certificate".

18 TITLE III—INCREASE IN MINIMUM WAGE

19 PRESENTLY COVERED EMPLOYEES

20 SEC. 301. (a) Section 6(a) of such Act is amended by
21 amending that portion of the section preceding paragraph
22 (2) to read as follows:

23 "(a) Every employer shall pay to each of his employees
24 who in any workweek is engaged in commerce or in the

1 production of goods for commerce, or is employed in an
2 enterprise engaged in commerce or in the production of
3 goods for commerce, wages at the following rates:

4 “~~(1)~~ not less than \$1.40 an hour during the first
5 year from the effective date of the Fair Labor Stand-
6 ards Amendments of 1966 and not less than \$1.60 an
7 hour thereafter, except as otherwise provided in this
8 section;”

9 ~~(b)~~ Such section is amended by striking out the pe-
10 riod at the end of paragraph ~~(3)~~ and inserting a semicolon;
11 and by adding the following new paragraph:

12 “~~(4)~~ if such employee is employed as a seaman
13 on an American vessel, not less than the rate which will
14 provide to the employee, for the period covered by the
15 wage payment, wages equal to compensation at the
16 hourly rate prescribed by paragraph ~~(1)~~ of this sub-
17 section for all hours during such period when he was
18 actually on duty (including periods aboard ship when
19 the employee was on watch or was, at the direction of
20 a superior officer, performing work or standing by, but

not including off-duty periods which are provided pursuant to the employment agreement); or”.

AGRICULTURAL EMPLOYEES

SEC. 302. Section 6(a) of such Act is amended by adding after paragraph (4) (added by section 301(b) of this Act) the following new paragraph:

“(5) if such employee is employed in agriculture, not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during the second year from such date, and not less than \$1.30 an hour thereafter.”

NEWLY COVERED EMPLOYEES

SEC. 303. Section 6(b) of such Act is amended to read as follows:

“(b) Every employer shall pay to each of his employees (other than an employee to whom subsection (a)(5) applies) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of

1 goods for commerce, and who in such workweek is brought
2 within the purview of this section by the amendments made
3 to this Act by the Fair Labor Standards Amendments of
4 1966, wages at the following rates:

5 “(1) not less than \$1 an hour during the first
6 year from the effective date of such amendments,

7 “(2) not less than \$1.15 an hour during the second
8 year from such date,

9 “(3) not less than \$1.30 an hour during the third
10 year from such date,

11 “(4) not less than \$1.45 an hour during the fourth
12 year from such date, and

13 “(5) not less than \$1.60 an hour thereafter.”

14 EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

15 SEC. 304. Section 6(c) of such Act is amended to read
16 as follows:

17 “(c) (1) The rate or rates provided by subsections (a)
18 and (b) of this section shall be superseded in the case of
19 any employee in Puerto Rico or the Virgin Islands only for
20 so long as and insofar as such employee is covered by a wage
21 order heretofore or hereafter issued by the Secretary pur-
22 suant to the recommendations of a special industry committee
23 appointed pursuant to section 5.

24 “(2) In the case of any such employee who is covered

1 by such a wage order and to whom the rate or rates pre-
2 scribed by subsection ~~(a)~~ would otherwise apply, the fol-
3 lowing rates shall apply:

4 “~~(A)~~ The rates or rates applicable under the most
5 recent wage order issued by the Secretary prior to the
6 effective date of the Fair Labor Standards Amendments
7 of 1966, increased by 12 per centum. Such rate or rates
8 shall become effective sixty days after the effective date
9 of the Fair Labor Standards Amendments of 1966 or one
10 year from the effective date of the most recent wage
11 order applicable to such employee theretofore issued by
12 the Secretary pursuant to the recommendations of a
13 special industry committee appointed under section 5,
14 whichever is later.

15 “~~(B)~~ Beginning one year after the applicable
16 effective date under paragraph ~~(A)~~, not less than the
17 rate or rates prescribed by paragraph ~~(A)~~, increased
18 by an amount equal to 16 per centum of the rate or rates
19 applicable under the most recent wage order issued by
20 the Secretary prior to the effective date of the Fair Labor
21 Standards Amendments of 1966.

22 “~~(3)~~ In the case of any such employee to whom sub-
23 section ~~(a)~~ ~~(5)~~ or subsection ~~(b)~~ would otherwise apply,

1 the Secretary shall within sixty days after the effective date
 2 of the Fair Labor Standards Amendments of 1966 appoint a
 3 special industry committee in accordance with section 5 to
 4 recommend the highest minimum wage rate or rates in ac-
 5 cordance with the standards prescribed by section 8, but not
 6 in excess of the applicable rate provided by subsection
 7 ~~(a)-(5)~~ or subsection ~~(b)~~, to be applicable to such em-
 8 ployee in lieu of the rate or rates prescribed by subsection
 9 ~~(a)-(5)~~ or subsection ~~(b)~~, as the case may be. The rate
 10 or rates recommended by the special industry committee
 11 shall be effective with respect to such employee upon the
 12 effective date of the wage order issued pursuant to such rec-
 13 ommendation but not before sixty days after the effective
 14 date of the Fair Labor Standards Amendments of 1966."

15 CONTRACT SERVICES TO FEDERAL GOVERNMENT

16 SEC. 305. Section 6 of such Act is amended by adding
 17 at the end thereof the following new subsection:

18 "(e) Notwithstanding any other provision of this Act
 19 ~~(except section 13(a)(1))~~, every employer providing a
 20 contract service under a contract with the United States or
 21 any subcontract thereunder shall pay to each of his em-
 22 ployees wages at rates not less than the rates provided for
 23 in subsection ~~(a)-(1)~~ of this section."

TITLE IV—APPLICATION OF MAXIMUM HOURS
PROVISIONS

PRESENTLY AND NEWLY COVERED EMPLOYEES

SEC. 401. Section 7(a) of such Act is amended to read
as follows:

“(a)(1) Except as otherwise provided in this section,
no employer shall employ any of his employees (other than
an employee described in paragraph (2) of this subsection)
who in any workweek is engaged in commerce or in the
production of goods for commerce, or is employed in an
enterprise engaged in commerce or in the production of
goods for commerce, for a workweek longer than forty hours
unless such employee receives compensation for his em-
ployment in excess of the hours above specified at a rate
not less than one and one-half times the regular rate at
which he is employed.

“(2) No employer shall employ any of his employees
who in any workweek is engaged in commerce or in the
production of goods for commerce, or is employed in an
enterprise engaged in commerce or in the production of
goods for commerce and who in such workweek is brought
within the purview of this subsection by the amendments

1 made to this Act by the Fair Labor Standards Amendments
2 of 1966—

3 ~~“(A) for a workweek longer than forty-four hours~~
4 ~~during the first year from the effective date of the Fair~~
5 ~~Labor Standards Amendments of 1966,~~

6 “~~(B)~~ for a workweek longer than forty-two hours
7 during the second year from such date, or

8 “(C) for a workweek longer than forty hours after
9 the expiration of the second year from such date,
10 unless such employee receives compensation for his employ-
11 ment in excess of the hours above specified at a rate not less
12 than one and one-half times the regular rate at which he is
13 employed.”

14 COMMISSION SALESMAN

15 SEC. 402. Subsection (i) of section 7 of such Act (as
16 so redesignated by section 204(d) of this Act) is amended
17 by adding at the end thereof the following new sentence: "In
18 determining the proportion of compensation representing
19 commissions, all earnings resulting from the application of
20 a bona fide commission rate shall be deemed commissions on
21 goods or services without regard to whether the computed
22 commissions exceed the draw or guarantee."

TITLE V—STUDENTS AND MANAGEMENT
TRAINEES

STUDENTS AND MANAGEMENT TRAINEES

SEC. 501. (a) Section 14 of such Act is amended—

(1) by inserting “(a)” immediately before “The Secretary of Labor”;

(2) by striking out “of messengers” and inserting in lieu thereof “and of messengers”;

(3) by striking out “, and of full-time students outside of their school hours in any retail or service establishment: *Provided*, That such employment is not of the type ordinarily given to a full-time employee”; and

(4) by adding at the end thereof the following new subsections:

“(b) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment of full-time students, regardless of age but in compliance with applicable child labor laws, on a part-time basis in retail or service establishments (not to exceed twenty hours in any work-week) or on a part-time or a full-time basis in such establish-

1 ments during school vacations, under special certificates
2 issued pursuant to regulations of the Secretary, at a wage rate
3 not less than 85 per centum of the minimum wage applicable
4 under section 6, except that the proportion of student hours
5 of employment to total hours of employment of all employees
6 in any establishment may not exceed ~~(1)~~ such proportion
7 for the corresponding month of the twelve-month period
8 preceding May 1, 1961, ~~(2)~~ in the case of a retail or service
9 establishment whose employees ~~(other than employees~~
10 ~~engaged in commerce or in the production of goods for com-~~
11 ~~merce)~~ are covered by this Act for the first time on or after
12 the effective date of the Fair Labor Standards Amend-
13 ments of 1966, such proportion for the corresponding month
14 of the twelve-month period immediately prior to such
15 date, or ~~(3)~~ in the case of a retail or service establishment
16 coming into existence after May 1, 1961, or a retail or service
17 establishment for which records of student hours worked
18 are not available, a proportion of student hours of employ-
19 ment to total hours of employment of all employees based
20 on the practice during the twelve-month period preceding
21 May 1, 1961, in ~~(A)~~ similar establishments of the same
22 employer in the same general metropolitan area in which
23 the new establishment is located, ~~(B)~~ similar establishments
24 of the same employer in the same or nearby counties if the
25 new establishment is not in a metropolitan area, or ~~(C)~~

1 other establishments of the same general character operating
2 in the community or the nearest comparable community.
3 Before the Secretary may issue a certificate under this sub-
4 section he must find that such employment will not create a
5 substantial probability of reducing the full-time employment
6 opportunities of persons other than those employed under
7 this subsection.

8 “(c) The Secretary, to the extent necessary in order to
9 prevent curtailment of opportunities for employment, shall
10 by certificate or order provide for the employment of full-
11 time students, regardless of age but in compliance with
12 applicable child labor laws, on a part-time basis in agricul-
13 ture (not to exceed twenty hours in any workweek) or on a
14 part-time or a full-time basis in agriculture during school
15 vacations, at a wage rate not less than 85 per centum of the
16 minimum wage applicable under section 6. Before the Sec-
17 retary may issue a certificate or order under this subsection
18 he must find that such employment will not create a substan-
19 tial probability of reducing the full-time employment oppor-
20 tunities of persons other than those employed under this
21 subsection.

22 “(d) The Secretary shall by regulation or by order
23 provide that retail or service establishments may employ
24 management trainees, under special certificates issued pur-
25 suant to regulations of the Secretary, without paying such

trainees the overtime compensation provided for by section 7 for a period which shall not exceed eighteen months, if such trainees are being trained for employment in a bona fide executive or administrative capacity as defined by the Secretary under section 13(a)(1). In the case of any retail or service establishment, no such special certificate shall be in effect—

“(1) where there are fifty employees or less in such establishment, with respect to more than one management trainee, or

“(2) where there are more than fifty employees in such establishment, with respect to more than a number of such trainees which is equal to 3 per centum of the number of employees in such establishment in excess of 50 (rounded to the next lowest whole number), plus one, or

“(3) where such management trainees receive compensation for hours worked over forty in any work-week at a rate less than one and one-half times the minimum wage rate applicable to such employees under section 6, or

“(4) where such management trainees are employed for more than forty-eight hours in any work-week.”

(b) The center heading for such section 14 is amended to read as follows:

~~“LEARNERS, APPRENTICES, AND HANDICAPPED WORKERS;
STUDENTS; AND MANAGEMENT TRAINEES”.~~

~~TITLE VI—STATUTE OF LIMITATIONS; EFFEC-
TIVE DATE; AND STUDY~~

~~STATUTE OF LIMITATIONS~~

SEC. 601. (a) Section 16(c) of such Act is amended by striking out “two-year statute” and by inserting in lieu thereof “statutes”.

(b) Section 6(a) of the Portal-to-Portal Act of 1947 (Public Law 49, Eightieth Congress) is amended by inserting before the semicolon at the end thereof the following: “; except that a cause of action arising out of a willful violation may be commenced within three years after the cause of action accrued”.

~~EFFECTIVE DATE~~

SEC. 602. Except as otherwise provided in this Act, the amendments made by this Act shall take effect on February 1, 1967. On and after the date of the enactment of this Act the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

STUDY OF EXCESSIVE OVERTIME

SEC. 603. The Secretary of Labor is hereby instructed to commence immediately a complete study of present practices dealing with overtime payments for work in excess of forty hours per week and the extent to which such overtime work impedes the creation of new job opportunities in American industry. The Secretary is further instructed to report to the Congress by July 1, 1967, the findings of such survey with appropriate recommendations.

That this Act may be cited as the "Fair Labor Standards Amendments of 1966".

TITLE I—DEFINITIONS

TIPS

SEC. 101. (a) Section 3(m) of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new sentence: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not—

"(1) during the first two years from the effective date of the Fair Labor Standards Amendments of 1966, by an amount in excess of 35 per centum of the applicable minimum wage rate,

"(2) during the third and fourth year from such

date, by an amount in excess of 40 per centum of such rate, and

“(3) during each year thereafter, by an amount in excess of 45 per centum of such rate,

except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount.”

(b) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

“(t) ‘Tipped employee’ means any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips.”

DEFINITION OF ENTERPRISE

SEC. 102. (a) Section 3(r) of such Act is amended by adding at the end thereof the following: “For purposes of this subsection, the activities performed by any person or persons—

“(1) in connection with the operation of a hospital, an institution primarily engaged in the care of the

1 *sick, the aged, the mentally ill or defective who reside*
 2 *on the premises of such institution, a school for mentally*
 3 *handicapped or gifted children, or an institution of*
 4 *higher education (regardless of whether or not such hos-*
 5 *pital, institution, or school is public or private or oper-*
 6 *ated for profit or not for profit), or*

7 *“(2) in connection with the operation of a street,*
 8 *suburban or interurban electric railway, or local trolley*
 9 *or motorbus carrier, if the rates and services of such rail-*
 10 *way or carrier are subject to regulation by a State or*
 11 *local agency (regardless of whether or not such rail-*
 12 *way or carrier is public or private or operated for profit*
 13 *or not for profit),*

14 *shall be deemed to be activities performed for a business*
 15 *purpose.”*

16 *(b) Section 3(d) of such Act is amended by inserting*
 17 *after “of a State” the following: “(except with respect to*
 18 *employees of a State, or a political subdivision thereof, em-*
 19 *ployed (1) in a hospital, institution, or school referred to in*
 20 *the last sentence of subsection (r) of this section, or (2) in*
 21 *the operation of a railway or carrier referred to in such*
 22 *sentence)”.*

23 *(c) Section 3(s) of such Act is amended to read as*
 24 *follows:*

25 *“(s) ‘Enterprise engaged in commerce or in the pro-*

1 *duction of goods for commerce' means an enterprise which*
 2 *has employees engaged in commerce or in the production of*
 3 *goods for commerce, including employees handling, selling,*
 4 *or otherwise working on goods that have been moved in or*
 5 *produced for commerce by any person, and which—*

6 *“(1) during the period February 1, 1967, through*
 7 *January 31, 1969, is an enterprise whose annual gross*
 8 *volume of sales made or business done is not less than*
 9 *\$500,000 (exclusive of excise taxes at the retail level*
 10 *which are separately stated) or is a gasoline service*
 11 *establishment whose annual gross volume of sales is not*
 12 *less than \$250,000 (exclusive of excise taxes at the*
 13 *retail level which are separately stated), and beginning*
 14 *February 1, 1969, is an enterprise whose annual gross*
 15 *volume of sales made or business done is not less than*
 16 *\$250,000 (exclusive of excise taxes at the retail level*
 17 *which are separately stated);*

18 *“(2) is engaged in laundering, cleaning, or re-*
 19 *pairing clothing or fabrics;*

20 *“(3) is engaged in the business of construction*
 21 *or reconstruction, or both; or*

22 *“(4) is engaged in the operation of a hospital, an*
 23 *institution primarily engaged in the care of the sick,*
 24 *the aged, the mentally ill or defective who reside on the*

1 premises of such institution, a school for mentally handi-
 2 capped or gifted children, or an institution of higher
 3 education (regardless of whether or not such hospital,
 4 institution, or school is public or private or operated for
 5 profit or not for profit).

6 Any establishment which has as its only regular employees
 7 the owner thereof or the parent, spouse, child, or other mem-
 8 ber of the immediate family of such owner shall not be con-
 9 sidered to be an enterprise engaged in commerce or in the
 10 production of goods for commerce or a part of such an en-
 11 terprise, and the sales of such establishment shall not be
 12 included for the purpose of determining the annual gross
 13 volume of sales of any enterprise for the purpose of this
 14 subsection.”

15 AGRICULTURAL EMPLOYEES

16 SEC. 103. (a) Section 3(e) of such Act is amended
 17 to read as follows:

18 “(e) ‘Employee’ includes any individual employed by
 19 an employer, except that such term shall not, for the pur-
 20 poses of section 3(u) include—

21 “(1) any individual employed by an employer en-
 22 gaged in agriculture if such individual is the parent,
 23 spouse, child, or other member of the employer’s imme-
 24 diate family, or

25 “(2) any individual who is employed by an em-

1 *ployer engaged in agriculture if such individual (A) is*
 2 *employed as a hand harvest laborer and is paid on a*
 3 *piece rate basis in an operation which has been, and is*
 4 *customarily and generally recognized as having been,*
 5 *paid on a piece rate basis in the region of employment,*
 6 *(B) commutes daily from his permanent residence to the*
 7 *farm on which he is so employed, and (C) has been*
 8 *employed in agriculture less than thirteen weeks during*
 9 *the preceding calendar year.”*

10 *(b) Section 3 of such Act is further amended by add-*
 11 *ing after subsection (t) (added by section 101(b) of this*
 12 *Act) the following new subsection:*

13 *“(u) ‘Man-day’ means any day during any portion of*
 14 *which an employee performs any agricultural labor.”*

15 *TITLE II—REVISION OF EXEMPTIONS*

16 *HOTEL, RESTAURANT, AND RECREATIONAL ESTABLISH-* 17 *MENTS; HOSPITALS AND RELATED INSTITUTIONS*

18 *SEC. 201. (a) Section 13(a)(2) of such Act is*
 19 *amended by striking out everything preceding “A ‘retail or*
 20 *service establishment’ ” and inserting in lieu thereof the*
 21 *following:*

22 *“(2) any employee employed by any retail or*
 23 *service establishment (except an establishment or em-*
 24 *ployee engaged in laundering, cleaning, or repairing*
 25 *clothing or fabrics or an establishment engaged in the*

1 operation of a hospital, institution, or school described
 2 in section 3(s)(4)), if more than 50 per centum of
 3 such establishment's annual dollar volume of sales of
 4 goods or services is made within the State in which the
 5 establishment is located, and such establishment is not in
 6 an enterprise described in section 3(s) or such establish-
 7 ment has an annual dollar volume of sales which is less
 8 than \$250,000 (exclusive of excise taxes at the retail
 9 level which are separately stated)."

10 (b)(1) Section 13(b) of such Act is amended by in-
 11 serting after paragraph (7) the following new paragraph
 12 in lieu of the paragraph repealed by section 211 of this
 13 Act:

14 "(8) any employee employed by an establishment
 15 which is a hotel, motel, or restaurant; or".

16 (2) Section 13(a) of such Act is amended by inserting
 17 after paragraph (2) the following new paragraph in lieu of
 18 the paragraph repealed by section 202 of this Act:

19 "(3) any employee employed by an establish-
 20 ment which is an amusement or recreational establish-
 21 ment, if (A) it does not operate for more than seven
 22 months in any calendar year, or (B) during the preced-
 23 ing calendar year, its average receipts for any six months
 24 of such year were not more than $33\frac{1}{3}$ per centum of its

average receipts for the other six months of such year;
or”.

LAUNDRY AND CLEANING ESTABLISHMENTS

SEC. 202. Section 13(a)(3) of such Act is repealed.

AGRICULTURAL EMPLOYEES

SEC. 203. (a) Section 13(a)(6) of such Act is
amended to read as follows:

“(6) any employee employed in agriculture (A) if
such employee is employed by an employer who did not,
during any calendar quarter during the preceding
calendar year, use more than five hundred man-days
of agricultural labor, or (B) if such employee is the
parent, spouse, child, or other member of his employer’s
immediate family; or”.

(b) Section 13(a)(16) of such Act (agricultural em-
ployees employed in livestock auctions) is repealed.

(c) Section 13(b) of such Act is amended—

(A) by striking out the period at the end of para-
graph (11) and inserting in lieu thereof “; or”, and

(B) by adding at the end of paragraph (11) the
following new paragraphs:

“(12) any employee employed in agriculture or in
connection with the operation or maintenance of ditches,
canals, reservoirs, or waterways, not owned or operated

1 for profit, or operated on a sharecrop basis, and which
 2 are used exclusively for supply and storing of water for
 3 agricultural purposes; or

4 “(13) any employee with respect to his employ-
 5 ment in agriculture by a farmer, notwithstanding other
 6 employment of such employee in connection with live-
 7 stock auction operations in which such farmer is engaged
 8 as an adjunct to the raising of livestock, either on his own
 9 account or in conjunction with other farmers, if such
 10 employee (A) is primarily employed during his work-
 11 week in agriculture by such farmer, and (B) is paid for
 12 his employment in connection with such livestock auc-
 13 tion operations at a wage rate not less than that pre-
 14 scribed by section 6(a)(1); or”.

15 AGRICULTURAL PROCESSING EMPLOYEES

16 SEC. 204. (a) Sections 13(a)(10) (employees en-
 17 gaged in handling and processing of agricultural, horticul-
 18 tural, and dairy products); 13(a)(17) (country elevator
 19 employees); 13(a)(18) (cotton ginning employees); and
 20 13(a)(22) (fruit and vegetable transportation employees)
 21 of such Act are repealed.

22 (b) Section 13(b) of such Act is amended by adding
 23 after paragraph (13) (added by section 203(c) of this Act)
 24 the following new paragraphs:

25 “(14) any employee employed within the area of

1 *production (as defined by the Secretary) by an estab-*
2 *lishment commonly recognized as a country elevator,*
3 *including such an establishment which sells products and*
4 *services used in the operation of a farm, if no more than*
5 *five employees are employed in the establishment in*
6 *such operations; or*

7 *“(15) any employee engaged in ginning of cotton*
8 *for market, in any place of employment located in a*
9 *county where cotton is grown in commercial quan-*
10 *tities; or*

11 *“(16) any employee engaged (A) in the transpor-*
12 *tation and preparation for transportation of fruits or*
13 *vegetables, whether or not performed by the farmer,*
14 *from the farm to a place of first processing or first mar-*
15 *keting within the same State, or (B) in transportation,*
16 *whether or not performed by the farmer, between the*
17 *farm and any point within the same State of persons*
18 *employed or to be employed in the harvesting of fruits*
19 *or vegetables; or”.*

20 *(c) Subsection (c) of section 7 of such Act is amended*
21 *to read as follows:*

22 *“(c) For a period or periods of not more than fourteen*
23 *workweeks in the aggregate in any calendar year, any em-*
24 *ployer may employ any employee for a workweek in excess*
25 *of that specified in subsection (a) without paying the com-*

1 *pen*sation for overtime employment prescribed in such sub-
 2 section if such employee (1) is employed by such employer
 3 in an industry (other than an industry described in subsec-
 4 tion (d)) found by the Secretary to be of a seasonal nature,
 5 and (2) receives compensation for employment by such
 6 employer in excess of ten hours in any workday, or for
 7 employment by such employer in excess of forty-eight hours
 8 in any workweek, as the case may be, at a rate not less
 9 than one and one-half times the regular rate at which he
 10 is employed.

11 “(d) For a period or periods of not more than four-
 12 teen workweeks in the aggregate in any calendar year,
 13 any employer may employ any employee for a workweek
 14 in excess of that specified in subsection (a) without paying
 15 the compensation for overtime employment prescribed in
 16 such subsection, if such employee—

17 “(1) is employed by such employer in an enter-
 18 prise which is in an industry found by the Secretary—

19 “(A) to be characterized by marked annually
 20 recurring seasonal peaks of operation at the places
 21 of first marketing or first processing of agricul-
 22 tural or horticultural commodities from farms if
 23 such industry is engaged in the handling, packing,
 24 preparing, storing, first processing, or canning of

any highly perishable agricultural or horticultural commodities in their raw or natural state, or

“(B) to be of a seasonal nature and engaged in the handling, packing, storing, preparing, first processing, or canning of any highly perishable agricultural or horticultural commodities in their raw or natural state, and

“(2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.”

(d) (1) Subsections (d), (e), (f), (g), and (h) of section 7 of such Act are redesignated as subsections (e), (f), (g), (h), and (i), respectively.

(2) Subsections (g) and (h) of such section 7 (as so redesignated by paragraph (1) of this subsection) are each amended by striking out “subsection (d)” and inserting in lieu thereof “subsection (e)”.

SMALL NEWSPAPERS

SEC. 205. Section 13(a)(8) of such Act is amended by striking out “where printed and published” and inserting in lieu thereof “where published”.

TRANSPORTATION COMPANIES

SEC. 206. (a) Section 13(a)(9) of such Act is repealed.

(b)(1) Section 13(a)(12) of such Act is repealed.

(2) Section 13(b) of such Act is amended by adding after paragraph (16) (added by section 204(b) of this Act) the following new paragraph:

“(17) any driver employed by an employer engaged in the business of operating taxicabs; or”.

(c) Section 13(b)(7) of such Act is amended to read as follows:

“(7) any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency; or”.

MOTION PICTURE THEATER EMPLOYEES

SEC. 207. Section 13(a) of such Act is amended by inserting after paragraph (8) the following new paragraph

1 *in lieu of the paragraph repealed by section 206(a) of this*
2 *Act:*

3 “(9) any employee employed by an establishment
4 *which is a motion picture theater; or”.*

5 *LOGGING CREWS*

6 *SEC. 208. Section 13(a)(15) of such Act is amended*
7 *by striking out “twelve” and inserting in lieu thereof*
8 *“eight”.*

9 *AUTOMOBILE, AIRCRAFT, AND FARM IMPLEMENT SALES*

10 *ESTABLISHMENTS*

11 *SEC. 209. (a) Section 13(a)(19) of such Act is re-*
12 *pealed.*

13 *(b) Section 13(b) of such Act is amended by inserting*
14 *after paragraph (9) the following new paragraph in lieu*
15 *of the paragraph repealed by section 212 of this Act:*

16 “(10) any salesman, mechanic, or partsman em-
17 *ployed by an establishment which is primarily engaged*
18 *in the business of selling automobiles, trucks, or farm*
19 *implements to the ultimate purchaser, and any salesman,*
20 *mechanic, or flight personnel employed by a nonmanu-*

1 *facturing establishment which is primarily engaged in*
 2 *selling aircraft; or”.*

3 *FOOD SERVICE EMPLOYEES*

4 *SEC. 210. (a) Section 13(a)(20) of such Act is*
 5 *repealed.*

6 *(b) Section 13(b) of such Act is amended by adding*
 7 *after paragraph (17) (added by section 206(b)(2) of this*
 8 *Act) the following new paragraph:*

9 *“(18) any employee of a retail or service estab-*
 10 *lishment who is employed primarily in connection with*
 11 *the preparation or offering of food or beverages for*
 12 *human consumption, either on the premises, or by such*
 13 *services as catering, banquet, box lunch, or curb or*
 14 *counter service, to the public, to employees, or to mem-*
 15 *bers or guests of members of clubs.”*

16 *GASOLINE SERVICE STATIONS*

17 *SEC. 211. Section 13(b)(8) of such Act is repealed.*

18 *PETROLEUM DISTRIBUTION EMPLOYEES*

19 *SEC. 212. (a) Section 13(b)(10) of such Act is re-*
 20 *pealed.*

21 *(b) Section 7(b)(3) of such Act is amended to read*
 22 *as follows:*

23 *“(3) by an independently owned and controlled*

1 *local enterprise (including an enterprise with more than*
 2 *one bulk storage establishment) engaged in the wholesale*
 3 *or bulk distribution of petroleum products if—*

4 *“(A) the annual gross volume of sales of such*
 5 *enterprise is less than \$1,000,000 exclusive of excise*
 6 *taxes,*

7 *“(B) more than 75 per centum of such enter-*
 8 *prise’s annual dollar volume of sales is made within*
 9 *the State in which such enterprise is located, and*

10 *“(C) not more than 25 per centum of the*
 11 *annual dollar volume of sales of such enterprise is to*
 12 *customers who are engaged in the bulk distribution*
 13 *of such products for resale,*

14 *and such employee receives compensation for employ-*
 15 *ment in excess of forty hours in any workweek at a rate*
 16 *not less than one and one-half times the minimum wage*
 17 *rate applicable to him under section 6.”.*

18 *ENIWETOK AND KWAJALEIN ATOLLS AND JOHNSTON*

19 *ISLAND*

20 *SEC. 213. Section 13(f) of such Act is amended by*
 21 *striking out “and the Canal Zone” and inserting in lieu*
 22 *thereof “Eniwetok Atoll; Kwajalein Atoll; Johnston Is-*
 23 *land; and the Canal Zone”.*

1 *TECHNICAL AND CONFORMING AMENDMENTS*

2 *SEC. 214. (a) Section 3(n) of such Act is amended*
 3 *by striking out “, except as used in subsection (s)(1),”.*

4 *(b) Section 13(a) of such Act is amended—*

5 *(1) by redesignating paragraphs (11), (13),*
 6 *(14), (15), and (21) as paragraphs (10), (11),*
 7 *(12), (13), and (14), respectively, and*

8 *(2) by striking out “; or” at the end of paragraph*
 9 *(14) (as so redesignated in this subsection) and insert-*
 10 *ing in lieu thereof a period.*

11 *(c) Paragraph (7) of section 13(a) of such Act is*
 12 *amended by striking out “or order” and inserting in lieu*
 13 *thereof “, order, or certificate”.*

14 *TITLE III—INCREASE IN MINIMUM WAGE*

15 *PRESENTLY COVERED EMPLOYEES*

16 *SEC. 301. (a) Section 6(a) of such Act is amended by*
 17 *amending that portion of the section preceding paragraph*
 18 *(2) to read as follows:*

19 *“(a) Every employer shall pay to each of his employees*
 20 *who in any workweek is engaged in commerce or in the*
 21 *production of goods for commerce, or is employed in an*
 22 *enterprise engaged in commerce or in the production of*
 23 *goods for commerce, wages at the following rates:*

24 *“(1) not less than \$1.40 an hour during the first*
 25 *year from the effective date of the Fair Labor Stand-*

ards Amendments of 1966 and not less than \$1.60 an hour thereafter, except as otherwise provided in this section;”.

(b) Such section is amended by striking out the period at the end of paragraph (3) and inserting a semicolon, and by adding the following new paragraph:

“(4) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement); or”.

AGRICULTURAL EMPLOYEES

SEC. 302. Section 6(a) of such Act is amended by adding after paragraph (4) (added by section 301(b) of this Act) the following new paragraph:

“(5) if such employee is employed in agriculture, not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amend-

1 *ments of 1966, not less than \$1.15 an hour during the*
2 *second year from such date, and not less than \$1.30 an*
3 *hour thereafter."*

4 *NEWLY COVERED EMPLOYEES*

5 *SEC. 303. Section 6(b) of such Act is amended to read*
6 *as follows:*

7 *"(b) Every employer shall pay to each of his employees*
8 *(other than an employee to whom subsection (a)(5) ap-*
9 *plies) who in any workweek is engaged in commerce or in*
10 *the production of goods for commerce, or is employed in an*
11 *enterprise engaged in commerce or in the production of*
12 *goods for commerce, and who in such workweek is brought*
13 *within the purview of this section by the amendments made*
14 *to this Act by the Fair Labor Standards Amendments of*
15 *1966, wages at the following rates:*

16 *"(1) not less than \$1 an hour during the first*
17 *year from the effective date of such amendments,*

18 *"(2) not less than \$1.15 an hour during the second*
19 *year from such date,*

20 *"(3) not less than \$1.30 an hour during the third*
21 *year from such date,*

22 *"(4) not less than \$1.45 an hour during the fourth*
23 *year from such date, and*

24 *"(5) not less than \$1.60 an hour thereafter."*

1 *EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS*

2 *SEC. 304. Section 6(c) of such Act is amended to read*
3 *as follows:*

4 *“(c)(1) The rate or rates provided by subsections (a)*
5 *and (b) of this section shall be superseded in the case of*
6 *any employee in Puerto Rico or the Virgin Islands only for*
7 *so long as and insofar as such employee is covered by a wage*
8 *order heretofore or hereafter issued by the Secretary pur-*
9 *suant to the recommendations of a special industry committee*
10 *appointed pursuant to section 5.*

11 *“(2) In the case of any such employee who is covered*
12 *by such a wage order and to whom the rate or rates pre-*
13 *scribed by subsection (a) would otherwise apply, the fol-*
14 *lowing rates shall apply:*

15 *“(A) The rate or rates applicable under the most*
16 *recent wage order issued by the Secretary prior to the*
17 *effective date of the Fair Labor Standards Amendments*
18 *of 1966, increased by 12 per centum. Such rate or*
19 *rates shall become effective sixty days after the effective*
20 *date of the Fair Labor Standards Amendments of 1966*
21 *or one year from the effective date of the most recent*
22 *wage order applicable to such employee theretofore*
23 *issued by the Secretary pursuant to the recommendations*

1 of a special industry committee appointed under section
2 5, whichever is later.

3 “(B) Beginning one year after the applicable effec-
4 tive date under paragraph (A), not less than the rate
5 or rates prescribed by paragraph (A), increased by
6 an amount equal to 16 per centum of the rate or rates
7 applicable under the most recent wage order issued by
8 the Secretary prior to the effective date of the Fair Labor
9 Standards Amendments of 1966.

10 “(3) In the case of any such employee to whom sub-
11 section (a)(5) or subsection (b) would otherwise apply,
12 the Secretary shall within sixty days after the effective date
13 of the Fair Labor Standards Amendments of 1966 appoint a
14 special industry committee in accordance with section 5 to
15 recommend the highest minimum wage rate or rates in ac-
16 cordance with the standards prescribed by section 8, but not
17 in excess of the applicable rate provided by subsection (a)(5)
18 or subsection (b), to be applicable to such employee in lieu
19 of the rate or rates prescribed by subsection (a)(5) or sub-
20 section (b), as the case may be. The rate or rates recom-
21 mended by the special industry committee shall be effective
22 with respect to such employee upon the effective date of the
23 wage order issued pursuant to such recommendation but not
24 before sixty days after the effective date of the Fair Labor
25 Standards Amendments of 1966.”

1 *CONTRACT SERVICES TO FEDERAL GOVERNMENT*

2 *SEC. 305. Section 6 of such Act is amended by adding*
3 *at the end thereof the following new subsection:*

4 *“(e) Notwithstanding any other provision of this Act*
5 *(except section 13(a)(1)), every employer providing a*
6 *contract service under a contract with the United States or*
7 *any subcontract thereunder shall pay to each of his em-*
8 *ployees wages at rates not less than the rates provided for in*
9 *subsection (a)(1) of this section.”*

10 *FEDERAL EMPLOYEES*

11 *SEC. 306. Section 18 of such Act is amended by insert-*
12 *ing “(a)” immediately after “SEC. 18.” and by adding at*
13 *the end thereof the following new subsection:*

14 *“(b) Notwithstanding any other provision of this Act*
15 *or any other law, any employee—*

16 *“(1) described in paragraph (7) of section 202*
17 *of the Classification Act of 1949 (5 U.S.C. 1082(7))*
18 *whose compensation is required to be fixed and adjusted*
19 *from time to time as nearly as is consistent with the*
20 *public interest in accordance with prevailing rates, or*

21 *“(2) employed in a nonappropriated fund instru-*
22 *mentality under the jurisdiction of the Armed Forces,*
23 *who performed services during the workweek in a work*
24 *place within the District of Columbia or a State of the United*
25 *States, shall have his basic compensation fixed or adjusted*

1 at a wage rate which is not less than the appropriate wage
2 rate provided for in section 6(a)(1) of this Act and shall
3 have his overtime compensation set at an hourly rate not
4 less than the overtime rate provided for in section 7(a)
5 of this Act.”

6 TITLE IV—APPLICATION OF MAXIMUM HOURS
7 PROVISIONS

8 PRESENTLY AND NEWLY COVERED EMPLOYEES

9 SEC. 401. Section 7(a) of such Act is amended to read
10 as follows:

11 “(a)(1) Except as otherwise provided in this section,
12 no employer shall employ any of his employees who in any
13 workweek is engaged in commerce or in the production of
14 goods for commerce, or is employed in an enterprise engaged
15 in commerce or in the production of goods for commerce,
16 for a workweek longer than forty hours unless such em-
17 ployee receives compensation for his employment in excess
18 of the hours above specified at a rate not less than one and
19 one-half times the regular rate at which he is employed.

20 “(2) No employer shall employ any of his employees
21 who in any workweek is engaged in commerce or in the
22 production of goods for commerce, or is employed in an
23 enterprise engaged in commerce or in the production of
24 goods for commerce, and who in such workweek is brought

1 within the purview of this subsection by the amendments
2 made to this Act by the Fair Labor Standards Amendments
3 of 1966—

4 “(A) for a workweek longer than forty-four hours
5 during the first year from the effective date of the Fair
6 Labor Standards Amendments of 1966,

7 “(B) for a workweek longer than forty-two hours
8 during the second year from such date, or

9 “(C) for a workweek longer than forty hours after
10 the expiration of the second year from such date,
11 unless such employee receives compensation for his employ-
12 ment in excess of the hours above specified at a rate not less
13 than one and one-half times the regular rate at which he is
14 employed.”

15 COMMISSION SALESMAN

16 SEC. 402. Subsection (i) of section 7 of such Act (as
17 so redesignated by section 204(d) of this Act) is amended
18 by adding at the end thereof the following new sentence: “In
19 determining the proportion of compensation representing
20 commissions, all earnings resulting from the application of
21 a bona fide commission rate shall be deemed commissions on
22 goods or services without regard to whether the computed
23 commissions exceed the draw or guarantee.”

*TITLE V—STUDENTS AND MANAGEMENT
TRAINEES*

STUDENTS AND MANAGEMENT TRAINEES

SEC. 501. (a) Section 14 of such Act is amended—

(1) by inserting “(a)” immediately before “The Secretary of Labor”;

(2) by striking out “of messengers” and inserting in lieu thereof “and of messengers”;

(3) by striking out “, and of full-time students outside of their school hours in any retail or service establishment: Provided, That such employment is not of the type ordinarily given to a full-time employee”; and

(4) by adding at the end thereof the following new subsections:

“(b) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment of full-time students, regardless of age but in compliance with applicable child labor laws, on a part-time basis in retail or service establishments (not to exceed twenty hours in any work-week) or on a part-time or a full-time basis in such establishments during school vacations, under special certificates issued pursuant to regulations of the Secretary, at a wage rate not less than 85 per centum of the minimum wage applicable under section 6, except that the proportion of student hours

1 of employment to total hours of employment of all employees
2 in any establishment may not exceed (1) such proportion
3 for the corresponding month of the twelve-month period
4 preceding May 1, 1961, (2) in the case of a retail or service
5 establishment whose employees (other than employees
6 engaged in commerce or in the production of goods for com-
7 merce) are covered by this Act for the first time on or after
8 the effective date of the Fair Labor Standards Amend-
9 ments of 1966, such proportion for the corresponding month
10 of the twelve-month period immediately prior to such
11 date, or (3) in the case of a retail or service establishment
12 coming into existence after May 1, 1961, or a retail or service
13 establishment for which records of student hours worked
14 are not available, a proportion of student hours of employ-
15 ment to total hours of employment of all employees based
16 on the practice during the twelve-month period preceding
17 May 1, 1961, in (A) similar establishments of the same
18 employer in the same general metropolitan area in which
19 the new establishment is located, (B) similar establishments
20 of the same employer in the same or nearby counties if the
21 new establishment is not in a metropolitan area, or (C)
22 other establishments of the same general character operating
23 in the community or the nearest comparable community.
24 Before the Secretary may issue a certificate under this sub-
25 section he must find that such employment will not create a

1 substantial probability of reducing the full-time employment
2 opportunities of persons other than those employed under
3 this subsection.

4 “(c) The Secretary, to the extent necessary in order to
5 prevent curtailment of opportunities for employment, shall
6 by certificate or order provide for the employment of full-
7 time students, regardless of age but in compliance with
8 applicable child labor laws, on a part-time basis in agricul-
9 ture (not to exceed twenty hours in any workweek) or on a
10 part-time or a full-time basis in agriculture during school
11 vacations, at a wage rate not less than 85 per centum of the
12 minimum wage applicable under section 6. Before the Sec-
13 retary may issue a certificate or order under this subsection
14 he must find that such employment will not create a substan-
15 tial probability of reducing the full-time employment oppor-
16 tunities of persons other than those employed under this
17 subsection.

18 “(d) The Secretary shall by regulation or by order
19 provide that retail or service establishments may employ
20 management trainees, under special certificates issued pur-
21 suant to regulations of the Secretary, without paying such
22 trainees the overtime compensation provided for by section
23 7 for a period which shall not exceed eighteen months, if
24 such trainees are being trained for employment in a bona
25 fide executive or administrative capacity as defined by the

1 *Secretary under section 13(a)(1). In the case of any re-*
2 *tail or service establishment, no such special certificate shall*
3 *be in effect—*

4 “(1) *where there are fifty employees or less in*
5 *such establishment, with respect to more than one man-*
6 *agement trainee, or*

7 “(2) *where there are more than fifty employees*
8 *in such establishment, with respect to more than a*
9 *number of such trainees which is equal to 3 per centum*
10 *of the number of employees in such establishment in*
11 *excess of fifty (rounded to the next lowest whole num-*
12 *ber), plus one, or*

13 “(3) *where such management trainees receive*
14 *compensation for hours worked over forty in any work-*
15 *week at a rate less than one and one-half times the*
16 *minimum wage rate applicable to such employees under*
17 *section 6, or*

18 “(4) *where such management trainees are employed*
19 *for more than forty-eight hours in any workweek.*

20 “(e) *Nothing in this Act shall require any employer*
21 *to pay in excess of 75 per centum of the applicable minimum*
22 *wage prescribed by section 6 to any employee, under the age*
23 *of twenty-one years, during the first six weeks of full-time*
24 *employment of such employee's employment career.”*

1 (b) *The center heading for such section 14 is amended*
 2 *to read as follows:*

3 “*LEARNERS, APPRENTICES, AND HANDICAPPED WORKERS;*
 4 *STUDENTS; AND MANAGEMENT TRAINEES*”.

5 *TITLE VI—STATUTE OF LIMITATIONS; EFFEC-*
 6 *TIVE DATE; AND STUDY*

7 *STATUTE OF LIMITATIONS*

8 *SEC. 601. (a) Section 16(c) of such Act is amended*
 9 *by striking out “two-year statute” and by inserting in lieu*
 10 *thereof “statutes”.*

11 (b) *Section 6(a) of the Portal-to-Portal Act of 1947*
 12 *(Public Law 49, Eightieth Congress) is amended by insert-*
 13 *ing before the semicolon at the end thereof the follow-*
 14 *ing: “, except that a cause of action arising out of a willful*
 15 *violation may be commenced within three years after the*
 16 *cause of action accrued”.*

17 *EFFECTIVE DATE*

18 *SEC. 602. Except as otherwise provided in this Act, the*
 19 *amendments made by this Act shall take effect on February*
 20 *1, 1967. On and after the date of the enactment of this Act*
 21 *the Secretary is authorized to promulgate necessary rules,*
 22 *regulations, or orders with regard to the amendments made*
 23 *by this Act.*

1 *STUDY OF EXCESSIVE OVERTIME*

2 *SEC. 603. The Secretary of Labor is hereby instructed*
3 *to commence immediately a complete study of present prac-*
4 *tices dealing with overtime payments for work in excess*
5 *of forty hours per week and the extent to which such over-*
6 *time work impedes the creation of new job opportunities*
7 *in American industry. The Secretary is further instructed*
8 *to report to the Congress by July 1, 1967, the findings*
9 *of such survey with appropriate recommendations.*

89TH CONGRESS
2D SESSION

H. R. 13712

[Report No. 1366]

A BILL

To amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

By Mr. DENT

MARCH 16, 1965

Referred to the Committee on Education and Labor

MARCH 29, 1966

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Olsen, Mont.	Ronan	Teague, Calif.
Olson, Minn.	Roncalio	Tenzer
O'Neill, Mass.	Rooney, Pa.	Thompson, N.J.
Ottlinger	Rosenthal	Thompson, Tex.
Palman	Rostenkowski	Trimble
Patten	Roush	Tunney
Pepper	Roybal	Tupper
Perkins	Ryan	Tuten
Philbin	St Germain	Udall
Pickle	St. Onge	Ullman
Pirnie	Scheuer	Van Deerlin
Poage	Schisler	Vanik
Powell	Schmidhauser	Vigorito
Price	Schweiker	Vivian
Pucinski	Secrest	Walker, N. Mex.
Purcell	Shipley	Watts
Race	Shriver	Weltner
Randall	Sickles	White, Idaho
Redlin	Sisk	White, Tex.
Rees	Skubitz	Widnall
Reid, N.Y.	Slack	Wilson,
Relfel	Stafford	Charles H.
Reinecke	Staggers	Wolff
Resnick	Stalbaum	Wyatt
Reuss	Steed	Wyder
Rhodes, Pa.	Stephens	Yates
Rivers, Alaska	Stratton	Young
Roberts	Stubblefield	Younger
Rodino	Sullivan	Zablocki
Rogers, Colo.	Sweeney	
Rogers, Tex.	Talcott	

NAYS—122

Abbitt	Edwards, Ala.	Michel
Abernethy	Erlenborn	Minshall
Adair	Findley	Morton
Anderson, Ill.	Flynt	Mosher
Andrews,	Ford, Gerald R.	Nelsen
George W.	Fountain	O'Neal, Ga.
Andrews,	Frelinghuysen	Passman
Glenn	Fulton, Pa.	Pelly
Arends	Gathings	Pike
Ashbrook	Goodell	Poff
Baring	Gross	Pool
Belcher	Grover	Quie
Bennett	Gurney	Quillen
Betts	Hagan, Ga.	Reid, Ill.
Bolton	Haley	Rhodes, Ariz.
Bow	Hall	Robison
Bray	Halleck	Rogers, Fla.
Brock	Hansen, Idaho	Roudebush
Brown, Ohio	Harsha	Rumsfeld
Bryhill, N.C.	Harvey, Ind.	Satterfield
Buchanan	Henderson	Saylor
Burton, Utah	Herlong	Schneebeli
Byrnes, Wis.	Huli	Selden
Catell	Hutchinson	Sikes
Callaway	Johnson, Pa.	Smith, Calif.
Chamberlain	Jonas	Smith, Va.
Clancy	Jones, Mo.	Springer
Clawson, Del	Kornegay	Stanton
Collier	Kunkel	Taylor
Conable	Laird	Teague, Tex.
Cooley	Langen	Thomson, Wis.
Corbett	Latta	Tuck
Cramer	Lennon	Waggonner
Curtin	Lipscomb	Walker, Miss.
Curtis	Long, La.	Watkins
Dague	McCarthy	Watson
Davis, Wis.	McClory	Whitener
Derwinski	McCulloch	Whitten
Devine	McEwen	Williams
Dickinson	Marsh	Wilson, Bob
Dole	Martin, Ala.	
Duncan, Tenn.	Martin, Nebr.	

ANSWERED "PRESENT"—2

Cederberg Utt

NOT VOTING—28

Ashmore	Hanna	O'Konski
Battin	Hays	Rivers, S.C.
Burleson	Jones, N.C.	Rooney, N.Y.
Cameron	Keogh	Scott
Carter	Leggett	Senner
Chelf	McMillan	Smith, Iowa
Clark	MacGregor	Smith, N.Y.
Colmer	Mailiard	Todd
Dorn	Martin, Mass.	Toll
Dowdy	Matthews	Whalley
Fallon	Mills	Willis
Fuqua	Murray	Wright
Gettys	O'Brien	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Rooney of New York for, with Mr. Cederberg against.

Mr. Keogh for, with Mr. Utt against.

Mr. Leggett for, with Mr. Colmer against.

Mr. Hanna for, with Mr. Jones of North Carolina against.

Mr. Cameron for, with Mr. Scott against.

Mr. Carter for, with Mr. Ashmore against.

Mr. Rivers of South Carolina for, with Mr. MacGregor against.

Mr. Matthews for, with Mr. Batten against.

Mr. Todd for, with Mr. Mailiard against.

Mr. Fallon for, with Mr. Martin of Massachusetts against.

Mr. O'Brien for, with Mr. McMillan against.

Mr. Hay for, with Mr. Gettys against.

Mr. Clark for, with Mr. Dorn against.

Mr. Toll for, with Mr. Dowdy against.

Until further notice:

Mr. Chelf with Mr. O'Konski.

Mr. Senner with Mr. Smith of New York.

Mr. Smith of Iowa with Mr. Whalley.

Mr. Fuqua with Mr. Mills.

Mr. Wright with Mr. Willis.

Mr. UTT. Mr. Speaker, I have a live pair with the gentleman from New York [Mr. KEOGH]. If he were present he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. CEDERBERG. Mr. Speaker, I have a live pair with the gentleman from New York [Mr. ROONEY]. If he were present he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

INDIAN AMERICAN FOUNDATION

(Mr. ALBERT asked and was given permission to address the House for 1 minute.)

Mr. ALBERT. Mr. Speaker, last night, at a state dinner in honor of Prime Minister Gandhi, President Johnson added a practical proposal to his tribute to the great leader of India. He said:

Tonight we mark the visit of Prime Minister Gandhi with a lasting endowment for the benefit of inquiring young minds in the Indian nation. May we launch a new and imaginative venture—an Indian American Foundation. Such a Foundation—

The President said—

would be given a broad charter to promote progress in all fields of learning, advance science, encourage research, and develop new teaching techniques in farm and factory to stimulate new ways to meet age-old problems.

I have discussed this idea with the Secretary of Agriculture, with officials on the President's staff, and with responsible persons in the State Department. I am convinced that this Indian American Foundation is a worthwhile and promising proposal.

The serious problem facing the Indian people, as with those facing every nation, will be solved ultimately by the application of native knowledge and determination, not only by financial resources.

This foundation, dedicated to educational, scientific and agricultural progress, will be a way of achieving such solutions. I heartily endorse the President's idea. I trust that those in the Congress whose support is needed to expedite this program will readily give their support to the establishment of the Indian American Foundation. It is at once an organization of practical significance and a symbol of cordial relations between our two nations.

INDIAN-AMERICAN FOUNDATION

(Mr. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOGGS. Mr. Speaker, I should like to commend the majority leader for the very fine statement that he has just made with respect to the action taken by our Government on the occasion of the visit of the gracious Prime Minister and First Lady of India, Mrs. Gandhi.

I had the pleasure of being in India not too long ago. Many people pointed out to me how wise it would be to utilize the accumulation of funds there which had been brought about through Public Law 480 and other programs such as the food-for-peace program in operation in that great nation. This is indeed a very sensible step by our Government.

The Indian-American Foundation will become an important new resource in helping India attack the persistent and vexing problems of illiteracy, poverty, hunger, and malnutrition.

It is an imaginative and sensible plan.

The Foundation has the potential for doing a vast amount of good for the Indian people, at minimum cost to the United States.

Under the food-for-peace program, we have sold large quantities of our surplus food to India for Indian rupees. In so doing, the United States has become the owner of nearly \$300 million in Indian rupees, most of which cannot legally be converted into dollars or other "hard" currency. This accumulation of Indian currency is far more than is needed to carry out U.S. Government purposes and programs in India.

By putting these funds to constructive use, we not only find work for idle funds to do, but can bring a fresh approach to India's problems in education, science, and agriculture at virtually no cost in U.S. dollars.

It is recognized by all that educational and scientific development is vital to the growth of sound economies in which every natural resource is harnessed for the betterment of the people. It is the aim of the Indian-American Foundation to hasten this process.

The Foundation will serve as a continuing source of finance for new initiatives in education and science and for the further support of promising projects already underway. It will support individual and institutional efforts to supplement existing programs, both public and private. It will encourage pioneering, innovation, and diversity beyond the normal range of publicly supported projects. It will, in short, do things which the Indian Government cannot undertake to do.

The program, while details have yet to be worked out, will be aimed at unlocking the latent skills and dormant resources of this keystone of democracy in Asia. The program will develop centers for research, provide scholarships for higher education and advanced study, help establish teacher training schools, provide special skill training for the "educated unemployed" and provide enlarged opportunities for American and other area studies and research in India and

for Indian studies and research by American students and scholars.

The program content will reflect the results of a continuing, objective, and systematic study of Indian educational and scientific needs.

The Foundation can contribute much toward furthering India's plans for lasting social and economic growth and can have far-reaching impact in improving the lot of her 490 million people.

Mr. ZABLOCKI. Mr. Speaker, it was my great privilege last night to be among the guests at the White House dinner for Mrs. Indira Gandhi, the Prime Minister of India.

On that occasion President Johnson, in a toast, proposed the establishment of an Indian-American Foundation to be financed by \$300 million worth of Indian currencies held by the United States through the sale of surplus agricultural products.

The President is to be commended for this imaginative, productive, and far-sighted use of these funds to aid in the progress of learning in India.

The Indian American Foundation will put to practical use funds which now are lying idle, of no benefit to the United States or to the people of India.

Unfortunately, there is no chance of converting these currencies into dollars at present or in the foreseeable future without doing grave harm to the Indian economy.

To leave the funds unused, however, is contrary to the interests of all concerned who seek that all available resources be put to work in the interests of economic progress.

I am particularly pleased that the chief objectives of the Foundation will be the development of agriculture and education in India.

Last fall a study mission of the House Foreign Affairs Subcommittee on the Far East and Pacific visited India. The report of the study mission, of which I was chairman, emphasized the importance of increased emphasis on both agriculture and education if India is to become economically self-sustaining.

The Foundation has many advantages. It will not require repeated or continuous appropriation of funds. It will operate on the interest of its endowment and will attract donations from private sources. It will have no inflationary effects on the Indian economy.

I submit, Mr. Speaker, that this Foundation is yet another American contribution to international cooperation and institution-building, based as it is on the uniquely American concept of the large, independent foundation supporting innovation and experimentation without Government support or control.

The idea of the binational foundation may have similarly beneficial applications elsewhere. For example, perhaps the Philippine War Damage Special Fund might be used to endow a permanent educational foundation, the income of which could be used to assist public and private education in the Philippine Islands.

A similar suggestion was contained in the final report of the Philippine-American Assembly which met last month in Davao, Republic of the Philippines, and which was attended by distinguished citizens of both countries.

As President Johnson said in his toast last evening:

The journey to the future is over a long, winding road, every mile tested by challenge and doubt.

By proposing the Indian-American Foundation, the President has lighted a lamp along that road to the future.

FAIR LABOR STANDARDS ACT OF 1966

(Mr. DENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DENT. Mr. Speaker, the report of the Committee on Education and Labor on the Fair Labor Standards Act of 1966, will today be filed in this body. This legislation is vital to many of our programs and, in particular, to the declared war on poverty. The bill has enjoyed incredible success to date. I believe this to be true because it is an equitable measure for all concerned. It extends the coverage of minimum wage protection to over 7.2 million workers. It further raises the minimum wage, in gradual increments, to \$1.60 an hour.

I am submitting the summary of provisions of our bill so that Members may analyze its content. I am hopeful that this legislation will soon meet the favorable consideration it deserves.

Any Member of Congress who finds that some of the provisions of the act are not quite clear and he has any questions about them, I shall be happy to sit down with him and try to clear it up for him.

The summary is as follows:

SUMMARY OF THE PROPOSED FAIR LABOR STANDARDS ACT AMENDMENTS AS REPORTED BY THE COMMITTEE ON EDUCATION AND LABOR, MARCH 21, 1966

I. PURPOSE

A. To extend minimum wage and overtime protection to certain employees.

Minimum wage protection will be extended to employees in the following:

Retailing, including auto, truck, and farm implement dealerships;
Construction;
Laundering and drycleaning;
Transit and taxicab systems;
Restaurants and food service establishments;

Logging;
Agriculture and agricultural employees;
Hotels and motels;
Hospitals and related institutions; and
Federal Government.

Overtime protection will be extended to employees in the following:

Retailing, including auto, truck, and farm implement dealerships (excluding salesmen and mechanics);

Construction;
Laundering and drycleaning;
Transit and taxicab systems (excluding operating employees);

Logging;
Agricultural processing;
Hospitals and related institutions;
Gasoline service stations; and
Federal Government.

B. To raise the minimum wage

Employees	Hourly rate	Effective date
Presently covered (29,600,000)	\$1.40	Feb. 1, 1967
	1.60	Feb. 1, 1968
Newly covered (nonfarm) (6,093,000)	1.00	Feb. 1, 1967
	1.15	Feb. 1, 1968
	1.30	Feb. 1, 1969
	1.45	Feb. 1, 1970
	1.60	Feb. 1, 1971
Agriculture (485,000)	1.00	Feb. 1, 1967
	1.15	Feb. 1, 1968
	1.30	Feb. 1, 1969
	1.40	Feb. 1, 1967
	1.60	Feb. 1, 1968

C. To provide overtime protection for newly covered employees:

A newly covered employee must receive compensation at a rate not less than 1½ times the regular rate at which he is employed for hours of employment in excess of—

	Effective date
44 hours in any workweek	Feb. 1, 1967.
42 hours in any workweek	Feb. 1, 1968.
40 hours in any workweek	Feb. 1, 1969.

II. EXTENSION OF MINIMUM WAGE

Estimated distribution of nonsupervisory employees who would be brought under minimum wage protection of the act in 1967 and 1969 by the bill:

[In thousands]

Industry	Employees added to minimum wage coverage			Total employees subject to minimum wage provisions
	1967	1969	Total	
Retail trade	1,155	345	1,500	4,086
Restaurants	300	125	425	432
Hotels and motels	240	35	275	275
Hospitals and related institutions	1,471		1,471	1,471
Miscellaneous services	20	30	50	349
Laundries	505		505	523
Agriculture	485		485	485
Transit systems	60	5	65	65
Agriculture in area of production	90		90	90
Taxicabs	75	25	100	100
Logging	37		37	37
Cotton ginning	34		34	34
Construction	581		581	2,994
Federal Government	665		665	665
All other industries	570	390	960	25,230
Total	6,288	955	7,243	36,836

NOTE.—These estimates do not reflect coverage of employees of employers providing contract services for the United States.

III. BRIEF SECTION-BY-SECTION ANALYSIS

Title I—Definitions

Section 101. Tips: Provides that the wage paid by an employer to a tipped employee shall be deemed to be increased on account of tips by an amount determined by the employer, but such amount shall not exceed 35 percent of the applicable minimum wage rate during the first 2 years from the effective date of the Fair Labor Standards Amendments of 1966, 40 percent during the third and fourth years, and 45 percent thereafter. Directs the institution of a procedure for reconsideration of the amount attributed as tips upon appeal by the employee.

Defines "tipped employee" as an employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips.

Section 102. Definition of enterprise: amends definition of "enterprise" and "employer" to include public and private, proprietary and nonproprietary hospitals (excluding Federal Government hospitals) and related institutions and, also, institutions of higher education regardless of whether or not such institutions are public or private or operated for profit or not for profit. Further amends definition of "enterprise" and "employer" to include public and private, proprietary, and nonproprietary transit systems.

Also amends the definition of an "enterprise engaged in commerce or in the production of goods for commerce" to include an enterprise which has employees engaged in commerce or in the production of goods for commerce and which (1) during the period February 1, 1967, through January 31, 1969, has an annual gross volume of sales of not less than \$500,000, or is a gasoline service establishment with an annual gross volume of sales of not less than \$250,000, (2) beginning February 1, 1969, has an annual gross volume of sales of not less than \$250,000, (3) is a laundry or drycleaning enterprise or a construction enterprise, or (4) is a hospital, nursing home, institution of higher education, or other related institution (regardless of whether or not such hospital, institution or school is public or private or operated for profit or not for profit). There is no dollar volume test for laundries, drycleaning, construction, or hospital and related institutional enterprises. "Mom and Pop" establishments remain excluded. Individual retail or service establishments with annual sales of less than \$250,000 are excluded under the amendment made to section 13(a)(2) of the act.

Section 103. Agricultural employees: Excludes from definition of employee, for the purposes of computing "man-days" of agricultural labor, "the parent, spouse, child, or other member of the agricultural employer's immediate family," and "any individual who is employed by an employer engaged in agriculture if such individual (A) is employed as hand harvest labor and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (B) commutes daily from his permanent residence to the farm on which he is so employed, and (C) has been employed in agriculture less than 13 weeks during the preceding calendar year." Defines "man-day" to mean any day during which an employee performs agricultural labor for the employer.

Title II—Revision of exemptions

Section 201. Hotel, restaurant, and recreational establishments; hospitals and related institutions: Repeals the minimum wage exemptions for such establishments (except seasonal recreational and amusement establishments). Maintains overtime exemptions for such establishments (except hospitals and related institutions).

Exempts any employee employed by any

retail or service establishment (but not employees of laundries or drycleaning establishments or employees of hospitals and related institutions) which are doing less than \$250,000 of business annually.

Section 202. Laundry and drycleaning establishments: Repeals minimum wage and overtime exemptions.

Section 203. Agricultural employees: Amends minimum wage exemption to maintain such exemption for agricultural employees employed by the same employer unless such employer uses more than 500 man-days of such labor during any calendar quarter of the preceding year. Members of the employer's immediate family are also exempt from the minimum wage. Maintains overtime exemption for agricultural employees, including livestock auctioneers.

Section 204. Agricultural processing employees: Repeals minimum wage and overtime exemption for agricultural processing employees in the "area of production"; repeals minimum wage but maintains overtime exemption for employees of country elevators located in "area of production"; repeals minimum wage but maintains overtime exemption for cotton ginning employees; repeals minimum wage but maintains overtime exemption for certain fruit and vegetable transportation employees.

Amends 14-week overtime exemption for seasonal industries (other than agricultural processing) to require compensation for hours of employment in excess of 10 in any workday or in excess of 48 in any workweek at 1½ times the regular rate.

Amends exemptions applicable to agricultural processing to provide for a single 14-week overtime exemption for processing of highly perishable agricultural or horticultural commodities in their raw or natural state, but the exemption requires compensation for hours worked in excess of 10 in any workday or in excess of 48 in any workweek at 1½ times the regular rate of pay for such employees. Only one 14-week overtime exemption for a calendar year may now apply to any employer.

Section 205. Small newspapers: Maintains minimum wage and overtime exemption for employees of such newspapers published in the county of major circulation.

Section 206. Transportation companies: Repeals minimum wage exemption but maintains overtime exemption for operating employees of transit and taxicab companies.

Section 207. Motion picture theater employees: Maintains minimum wage and overtime exemption.

Section 208. Logging crews: Reduces minimum wage and overtime exemption criteria from a 12-man crew to an 8-man crew.

Section 209. Automobile, aircraft, and farm implement sales establishments: Repeals minimum wage and overtime exemption and provides overtime exemption for salesmen, mechanics, flight personnel, and partsmen in such establishments.

Section 210. Food service employees: Repeals minimum wage but maintains overtime exemption.

Section 211. Gasoline service stations: Repeals overtime exemption.

Section 212. Petroleum distribution employees: Amends overtime exemption to provide an overtime exemption for employment up to 12 hours in any workday and up to 56 hours in any workweek for independently owned bulk petroleum distributors doing less than \$1 million of business annually if more than 75 percent of sales is made intrastate, not more than 25 percent of the distributor's customers purchase for resale, and compensation for hours between 40 and 56 in any workweek is not less than 1½ times the applicable minimum wage.

Section 213. Eniwetok and Kwajalein Atolls and Johnston Island: Extends jurisdiction of act.

Section 214. Conforming amendments.

Title III—Increases in minimum wage

Section 301. Presently covered employees: Raises minimum wage for employees covered prior to enactment of 1966 amendments to not less than \$1.40 an hour beginning February 1, 1967, and not less than \$1.60 an hour beginning February 1, 1968.

Section 302. Agricultural employees: Provides a minimum wage for newly covered agricultural employees of not less than \$1 an hour beginning February 1, 1967; not less than \$1.15 an hour beginning February 1, 1968; and not less than \$1.30 an hour beginning February 1, 1969.

Section 303. Newly covered employees: Provides a minimum wage for employees covered by the act for the first time by the 1966 amendments (other than newly covered agricultural employees) at not less than \$1 an hour beginning February 1, 1967; not less than \$1.15 an hour beginning February 1, 1968; not less than \$1.30 an hour beginning February 1, 1969; not less than \$1.45 an hour beginning February 1, 1970; and not less than \$1.60 an hour beginning February 1, 1971.

Section 304. Employees in Puerto Rico and the Virgin Islands: provides for a percent minimum wage increase for employees in Puerto Rico and the Virgin Islands who are covered by wage orders presently in effect, which is the equivalent of the percent increase on the mainland. Provides for minimum wages for employees brought within coverage of the act for the first time by the 1966 amendments at rates to be set by special industry committees so as "to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed" for such employees. Eliminates the review committees established by the 1961 amendments.

Section 305. Contract services for Federal Government: Every employer providing a contract service for the United States shall pay to his employees the applicable minimum wage.

Section 306. Federal employees: Establishes minimum wage and overtime coverage for certain wage-board and nonappropriated fund Federal employees.

Title IV—Application of maximum hours provision

Section 401. Presently and newly covered employees: Maintains provision for 40-hour workweek and compensation for employment in excess of 40 hours at 1½ times the regular rate of pay. For employees covered by the overtime provision for the first time by the 1966 amendments the workweek is phased in beginning at 44 hours during the year beginning February 1, 1967; at 42 hours during the year beginning February 1, 1968; and 40 hours after February 1, 1969.

Section 42. Commission salesmen: Provides that in the application of a bona fide commission rate, "commissions" shall be deemed commissions without regard to whether they exceed the draw or guarantee.

Title V—Student and management trainees

Section 501. Student and management trainees: Amends full-time student provision to provide for the employment of full-time students regardless of age (but in compliance with the applicable child labor laws) outside of their school hours in retail or service establishments or in agriculture at 85 percent of the minimum wage in full-time positions during school vacations or in part-time positions not to exceed 20 hours in any workweek under certificates issued by the Secretary.

Limits number of students to be hired at subminimum wages in retail or service establishments to the proportion of students in the establishment or similar establishments prior to the 1961 amendments.

Provides an overtime exemption for the employment of management trainees in retail or service establishments limited to 18

months per trainee if such training is for an administrative or executive position and the trainee receives 1½ times the minimum wage for hours worked in excess of 40 in any workweek and the trainee is not employed for more than 48 hours in any workweek.

A limitation of one trainee to an establishment with 50 or fewer employees or a number of trainees equal to a maximum of 3 percent of the total number of employees in an establishment with more than 50 employees is provided.

Further provides that no employer shall be required to pay in excess of 75 percent of the applicable minimum wage to any employee under the age of 21 years during the first 6 weeks of full-time employment of such employee's employment career.

Title VI—Statute of limitations and effective date

Section 601. Statute of limitation: Maintains 2-year statute of limitations, except in the case of a willful violation where a 3-year statute of limitations is provided.

Section 602. Effective date: The amendments made by this act shall take effect on February 1, 1967. On and after the date of the enactment of this act the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this act.

Section 603. Study of excessive overtime: The Secretary is instructed to study present practices dealing with overtime work and to report to the Congress by July 1, 1967.

GOVERNORS UNANIMOUSLY SUPPORT PRESIDENT'S POLICY

(Mr. BROOKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include an editorial.)

Mr. BROOKS. Mr. Speaker, an indication of the support accorded President Johnson's Vietnam policy, was the action taken by the Governors of various States attending a recent White House Conference. These Governors, representing 38 of our States, unanimously voted to declare their support of our Government's policies.

The unsolicited support of these State executives is solid evidence of the sentiment of a great majority of our citizens and should clarify any questions that may have arisen as a result of the so-called great debate on Vietnam concerning the extent of this national support.

The Houston Post, on March 16, 1966, carried an editorial praising the Governors for this vote of confidence given to the President. The paper states:

The unanimous vote of support given President Johnson's Vietnam policies by 38 of the Nation's 50 State Governors present at a White House Conference should go a long way toward countering any impression that exists abroad that he does not have the backing of most of the American people.

It adds that:

By taking the action they did, the Governors recognized the need for a declaration of presidential support and acted accordingly. They are to be congratulated for doing so. They served the country well by speaking out as they did in a loud, clear and unanimous voice.

Believing that my colleagues will want to read the editorial in full, I include the article in the RECORD at this point:

GOVERNORS BACK L.B.J. POLICY

The unanimous vote of support given President Johnson's Vietnam policies by 38 of the Nation's 50 State Governors present at

a White House conference should go a long way toward countering any impression that exists abroad that he does not have the backing of most of the American people.

The action of the Governors also was good for domestic morale in that it showed that the President does not stand alone among elective public officials in his judgment as to what is the wisest and best course for this country to follow in southeast Asia.

Although the recent congressional debate and senatorial hearings on Vietnam policy were entirely defensible, and perhaps even desirable, they may have created a false impression among those who do not understand thoroughly how the American political system works, and this includes the leaders of the principal Communist countries.

The President did not actively seek a vote of confidence from the men who hold executive positions comparable to his own at the State level of government, but the Governors' declaration of support was well timed. And in view of the rough time that the President has been given recently by a few Members of Congress, he probably was engaging in understatement when he said that he was pleased.

The group of Governors include Republicans as well as Democrats. They acted after being given a briefing on the facts of the Vietnam situation. It is true that 12 Governors were not present at the conference, having been prevented from attending by various reasons, but there is every reason to believe that the vote still would have been unanimous or nearly so if all had been present.

There always has been a debate between Members of the U.S. Senate and State Governors as to which group is really closest to the people, and which best represents or gives expression to the views of the country as a whole. But there is no denying that the Governors, by reason of the positions they hold, are in intimate, daily contact with the people of their States and have a better opportunity to assess public sentiment in their States than Members of Congress whose duties require them to spend most of their time in Washington. In short, the Governors can claim to be a little closer to the grassroots.

Even in the Senate, the number of critics of Presidential policy has been small. The attention they and their views have received has been out of all proportion to their numerical strength. Still, in exercising their right or duty to give expression to their views, they may have misled some foreign observers as to the significance of their dissents and, at the time, aroused doubt in the minds of some Americans as to the soundness of the President's decisions.

By taking the action they did, the Governors in Washington for the weekend meeting administered an antidote that should be highly effective. They recognized the need for a declaration of Presidential support and acted accordingly. They are to be congratulated for doing so. They served the country well by speaking out as they did in a loud, clear, and unanimous voice.

UTILIZATION OF OSTEOPATHS BY THE ARMED SERVICES

(Mr. CAHILL asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. CAHILL. Mr. Speaker, and Members of the House, you will recall that I have been attempting to investigate the reasons why doctors of osteopathy are not permitted to be commissioned in the military service.

I am happy to report to the House that I have now received responses to my in-

quiries from the Office of the Secretary of Defense and from two other Secretaries.

At the present time one of the objections advanced has been eliminated; that is, the Joint Committee on the Accreditation of Hospitals now offers no objection, provided that the osteopath does not become the chief of staff.

It now appears that we have the anomalous situation that the American Medical Association is now the stumbling block to the acceptance of osteopaths in the military service.

This seems to me somewhat incongruous when it is considered that it is the members of the American Medical Association who are being drafted into the military service, some of them fathers of large families, perhaps because single osteopaths are not acceptable.

I urge the Members to join with me in investigating what I believe to be a dispute between two civilian medical organizations, which should be resolved for the benefit of our country.

I incorporate the letters I have received in the RECORD:

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., March 23, 1966.

Hon. WILLIAM T. CAHILL,
House of Representatives,
Washington, D.C.

DEAR MR. CAHILL: This is in reply to your letter of March 16, 1966, in which you inquire further about utilization of osteopaths in the armed services.

I mentioned in my letter to you of March 15, 1966, that I had approached the civilian medical organizations relative to a solution. In reply the Joint Committee on the Accreditation of Hospitals offered no objection to a proposal to commission and utilize osteopaths provided they do not become the chiefs of staff and heads of the important departments who must be doctors of medicine.

The American Medical Association has not replied to my letter. The steadfast policy of that organization that doctors of osteopathy may not serve on the teaching staffs of hospitals without jeopardy to the status of approved internships and residencies is of significant importance. Since there are approximately 500 interns and 1,500 residents in training, it is appropriate that their interests be protected.

It is true that there is a fundamental difference of opinion between the American Medical Association and the American Osteopathic Association. For that matter there are different licensing practices in the United States. In 38 States and the District of Columbia, the osteopath may obtain a license which will permit him to use medicine and surgery in his practice. In 11 States they are still restricted; that is, no doctor of osteopathy may obtain a license to use medicine and surgery in his practice. In California where the school of osteopathy converted to a medical degree school, no new licenses are presented to osteopathic physicians.

An answer to my letter to the American Medical Association is expected in the near future. As per your request, I shall keep you advised.

Sincerely,
SHIRLEY C. FISK., M.D.,
Deputy Assistant Secretary
(Health and Medical).

DEPARTMENT OF THE AIR FORCE,
Washington, March 25, 1966.

Hon. WILLIAM T. CAHILL,
House of Representatives.

DEAR MR. CAHILL: The Secretary has asked me to reply to your recent letter in which

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

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For actions of May 11, 1966
89th-2nd; No. 78

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HIGHLIGHTS: House Rules Committee cleared participation sales bill. Rep. Talcott criticized this bill. Rep. Quie charged USDA with "misuse of farm policy to manipulate prices. Rep. Ullman stated cost-price squeeze cannot be borne by agricultural economy indefinitely.

HOUSE

1. LABOR STANDARDS. The Rules Committee reported a resolution for consideration of H. R. 13712, to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees and to raise the minimum wage (p. 9846). This bill extends the minimum-wage and overtime provisions to agricultural, logging, and Federal employees, among others. The minimum wage for agricultural employees would begin at \$1 per hour effective Feb. 1, 1967, and gradually increase to \$1.30 effective Feb. 1, 1969.

2. PARTICIPATION SALES. The Rules Committee reported a resolution for consideration of H. R. 14544, the participation sales bill. pp. 9846-7
Rep. Talcott criticized the participation sales bill (p. 9806), and Rep. Rhodes, Ariz., inserted the Republican Policy Committee statement calling this bill "a new level of fiscal irresponsibility" (pp. 9831-2).
3. POVERTY. The "Daily Digest" states that the Rules Committee deferred action on H. Res. 670 and similar resolutions, to create a select committee to investigate the operation of the Economic Opportunity Act. p. D407
4. POSTAL RATES. Rep. Derwinski questioned the "actions of officials of the Post Office Department in lobbying for H. R. 14904," to revise postal rates on certain fourth-class mail. p. 9824
5. EXPENDITURES. Rep. Patman commended and inserted Secretary of the Treasury Fowler's "description of the Federal expenditure control policy." pp. 9824-27
6. GOVERNMENT-BUSINESS COOPERATION. Rep. Patman commended the Campbell Soup Co. for its opening of a new plant in a predominantly rural area and inserted a speech by the company president urging a better understanding between Government and business. pp. 9827-8
7. WORLD POPULATION. Rep. Younger commended and inserted an address, "Is Famine the Only Answer?" outlining the work of the Planned Parenthood-World Population organization. pp. 9832-4
8. ECONOMY. Rep. Curtis commended and inserted an article by Sen. Jordan which he states is a "persuasive case against the administration's policy of putting the burden on the private sector for preventing an inflation which is largely the result of administration policies to stimulate the economy." pp. 9834-5
9. FARM PRICES. Rep. Quie stated that this Department "is confident that by 'bribing' livestock farmers with low feed grain costs, it can bring down the price of meat, both to the farmer and to the consumer." p. 9835

SENATE

10. APPROPRIATIONS. A subcommittee of the Appropriations Committee approved for full committee action H. R. 14266, the Treasury, Post Office, Executive Office, and independent agencies appropriation bill. p. D404

ITEMS IN APPENDIX

11. GREAT SOCIETY. Rep. Shriver inserted a speech critical of the Great Society programs and presenting thoughts regarding the impact of Federal programs on business and labor. pp. A2547-9
12. FOREIGN TRADE. Extension of remarks of Rep. Dulski urging enactment of legislation to amend the Antidumping Act in order to clarify standards and improve procedures in the administration of the act, pp. A2549-50
13. FARM PRICES. Extension of remarks of Rep. Ullman stating that "The burden of the cost-price squeeze cannot be borne by the agricultural economy of the Nation indefinitely..." and inserting a statement of the Oreg. Beef Council and Cattlemen's Ass'n on this subject. pp. A2552-3

service to the American cause. He was praised by Benjamin Franklin and decorated with the Cross of St. Louis by the French Government. He was a member of the Society of the Cincinnati in the State of Georgia.

AID PROGRAMS LOOK MORE IMAGINATIVE THAN EVER

The **SPEAKER** pro tempore. Under previous order of the House, the gentleman from Delaware [Mr. McDOWELL], is recognized for 20 minutes.

Mr. McDOWELL. Mr. Speaker, there is a new appreciation and understanding of foreign aid. An example of this is a recent article in the Wilmington, Del., Morning News of May 6 by Associate Editor John G. Craig, Jr.

I include this excellent article by Mr. Craig, as well as the column by Joseph Alsop of May 11 which is a capsule of the past history of restraint on the part of the people of the United States and their Government in the use of American power. While others speak disparagingly of the spiritual and political responsibility of our country, and its record of mature and thoughtful direction of our foreign policy in this century, Mr. Alsop clearly defines the history as I am quite sure it will be written for all time. [From the Wilmington, Del., Morning News, May 6, 1966]

AID PROGRAMS LOOK MORE IMAGINATIVE THAN EVER

(By John G. Craig, Jr.)

Ask an American what's wrong with American foreign policy and chances are he'll tell you his native land has been giving too much money for too long to too many of the wrong people around the world.

When it comes to international affairs, U.S. aid programs have about the same image that welfare payments do on the domestic scene. They are a Federal handout that is neither controlled nor helpful; aid is what one puts down a rathole.

While there have undoubtedly been many instances of ineffective expenditure of dollars abroad, it is a gross oversimplification to write off U.S. aid as a waste. After one talks with those officials in Washington who are most responsible for the aid programs, one is impressed with just how sophisticated U.S. aid programs have become. Mistakes there have been, but most of them were in the past when the United States was still learning what it meant to be an international power. The problem now is getting enough money to do the minimum necessary, not how to stop Agency for International Development officials from suffocating the developing world in money.

For example, one of the aid myths is that the United States gives away a lot of it. This is not so. Not only does the United States lend more than it gives, but the amount in either case is not that large. Forgetting Vietnam where military and economic aid are so entangled with the Defense Department budget, one finds that the United States is asking for about \$3½ billion for aid, or about 3 percent of the Federal budget for 1966-67. That is a large amount of money, but it does not represent a great deal in terms of national sacrifice. The British, French, and Japanese, to name three nations, all spend a higher percentage of their gross national product for aid than does the United States; Japan spends 1 percent of its gross national product on aid, the United States spend four-tenths of 1 percent, or less than half the Japanese amount.

Another common criticism of U.S. aid is that it is poorly managed. That comes from two groups of critics, those who think aid is bad in any form, and those who think aid is fine but the way the United States gives it is bad. The second group, which is generally the more responsible, if not the more vocal, could be said to be represented by the Senator, J. W. FULBRIGHT. In the Senator's view it is wrong for the United States to give any money to any nation itself; it should contribute to international lending institutions and let them distribute of the credits.

Senator FULBRIGHT suggests that there is little use by the United States of the international lending agency. But, as Government officials in Washington point out, the United States is using agencies like the United Nations, the World Bank, African Development Bank, and the Asian Bank just as often as it can, and would use them more if they could meet the two conditions the United States places on their use: They must demonstrate that their management has the capacity to effectively handle the increased load that availability of more U.S. aid money implies, and they must be able to attract proportionate capital from other countries, so that the U.S. contribution doesn't dominate the agency's work. Some international lending agencies are comparatively new to the business and so far have been able to attract only a limited amount of managerial talent and international financial support.

Government officials are also emphatic in denying the Fulbright contention that AID programs are administered in such a way as to force U.S. policy to go in certain directions. The Senator, for example, suggests that the United States is involved in Vietnam today because it has to protect its financial investment in a series of South Vietnamese politicians from President Diem to Premier Ky. The administration counters this contention with a flat-footed denial. "Aid is the servant, not the master of U.S. policy," one official said. "We can stop it any time."

There is also the question of aid and the balance-of-payments problem. If the United States would just stop spending aid money, the problem of deficits would go away. In this regard, it is pertinent to point out that 80 percent of all U.S. aid money is now spent in the United States. And it is also worth noting that some U.S. industries, steel and rail machinery are examples, depend on aid programs for a significant amount of business. AID accounts for about 5 percent of total U.S. exports, but some industries count on U.S. aid programs for up to 33 percent of their export business.

Finally, there is the question raised by India's Mrs. Gandhi, who said her country does not want more aid, it wants a larger share of world trade. What she was suggesting is something that has been heard from a number of the underdeveloped countries: They want preferential markets for their goods in the developing world.

The administration replies sympathetically, but argues against preferences, because it says it is too easy to become dependent on them, and when a nation receives them it is too easy for that nation to ignore inefficiencies in its domestic economy. The administration takes the position that a developing country's domestic economic policies are the most important factor in its development. If they are sound, then trade will follow. Aid comes third, but it is merely a tool, a tool to help found that sound domestic economic policy and to help promote trade.

It is for this reason that the administration is now pressing for Congress to separate military and economic aid, to grant the Agency for International Development a 5-year authorization for specific aid programs, and to give its support to the use of international lending agencies. Aid is no longer a dollar handout; it is a sophisticated eco-

nomie science. And one is convinced, after listening to Government officials for 2 days, that some of the most interesting and effective international work the Nation is doing is in the area of helping others to help themselves.

[From the Washington Post, May 11, 1966]

THE AMERICAN FORGETTORY

(By Joseph Alsop)

ANCHORAGE, ALASKA.—The dreary airport waiting room like all the others on the west coast nowadays, is crowded with young Americans in uniform. They look hard and fit and carefree. Most of them are on their way to serve in the war in Vietnam in one duty or another.

It brings back the old days, when their uncles or even perhaps their fathers, suddenly called back to service after the first son was born, were going off to the Korean war. Our Army now is vastly tougher, vastly more professional than the half-trained occupation army that had to take the first shock in the Korean war. But otherwise the atmosphere is much the same.

But although the atmosphere in this airport waiting room recalls 1950, the same cannot be said of the atmosphere of present-day Washington, where everyone solemnly discusses Senator FULBRIGHT's pseudo-erudite pronouncements on the "arrogance of power." There has been a strange change, not least in Senator FULBRIGHT himself.

Only think of the record of the last 20 years of American achievement. The postwar drama opened in deadly earnest with a remote crisis in Azerbaijan, where the Soviets were most reluctant to withdraw their troops. Then came Greek-Turkish aid and the American role in the Greek civil war.

One wonders whether those who talked about that war in almost the exact terms they now use about Vietnam, are still convinced we should have made no effort to help the Greeks save themselves from the Communists!

The Marshall plan, the Berlin airlift, the birth of NATO, all followed in swift succession. But in 1949 President Truman attempted a Hardingesque return to "normalcy"; and the Truman-Louis Johnson disarmament program invited the aggression in Korea.

Being a very brave man, Mr. Truman met the challenge without flinching, and so we rounded that corner, albeit at great cost.

The Eisenhower years then saw the Lebanon landing, the stern, brief test of wills in the Formosa Strait, and the abrupt renewal of the Soviet threat to Berlin.

Out of the renewed threat, in turn, grew the central episodes of President Kennedy's great service.

At Vienna, in 1961, the young President heard a direct ultimatum from Nikita Khrushchev, who swore he would take Berlin by force before another year had passed. Mr. Kennedy replied bleakly that if Khrushchev meant what he said, it looked like being a pretty cold winter. And he went home to call up the Reserves—whereupon it turned out that Khrushchev did not quite mean what he said.

Nonetheless, Khrushchev still meant to get Berlin if he could. So the secret effort began to turn the American position, by placing Soviet missiles in Cuba. And when this was discovered, the result was the brief, terrible, breathless confrontation, big with a genuine danger of thermonuclear war, which ended so well that every world relationship was profoundly and fortunately altered.

Looking back on this long, proud American record, surveying the airport waiting room, remembering Senator FULBRIGHT on the same topic, one cannot help but wonder what the devil has come over us.

Do the Senator and his admirers think, for instance, that President Kennedy succumbed

to the "arrogance of power" when he knowingly risked a thermonuclear exchange to meet the Cuban challenge? And if not, where is the "arrogance" in President Johnson's doing in Vietnam approximately the same thing that President Truman did in Korea?

These are worrisome questions, indeed, for they suggest we may be in for another round or spasm of the American forgettury. A man or nation with a good forgettury is able to forget, ignore, overlook, or otherwise purge his mind of all displeasing facts and uncomfortable past experiences. The last great spasm of the American forgettury was in the 1930's.

The worst of that time was not the party-lining foolishness of a small minority. The worst of that time, rather, was the loss of any sense of world-political reality by almost the whole American intellectual community.

In the mid-thirties, for instance, with Adolf Hitler ruling Germany already, almost the whole intellectual community held that opposition to the Nye Neutrality Act was a proof of wicked war-loving views. And only 4 years later, all the same people were more accurately bellowing that opposition to repeal of the same Neutrality Act was a proof of love of Hitler.

Must we now go through the same experience again? God help not! For where the follies of the older, weaker America were, no great danger, another spasm of forgettury in the new, giant power America will surely have consequences too awful to contemplate.

ANNOUNCEMENT

Mr. RIVERS of South Carolina. Mr. Speaker, on the rollcall just concluded on the bill H.R. 14083 to amend chapter 55 of title 10, United States Code, to authorize an improved health benefits program for retired members and members of the uniformed services and their dependents, and for other purposes, reported from the Committee on Armed Services, I was unavoidably detained along with another distinguished member of my committee, the gentleman from Washington [Mr. Hicks], on a very important conference, and we missed the rollcall. Had we been present, we would have voted for the bill, as the entire membership of the House did, without one dissenting vote. We could not make the rollcall because we had a commitment from which we could not be excused.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FINDLEY (at the request of Mr. GERALD R. FORD), through May 16, on account of official business as U.S. delegate to the NATO Parliamentary Conference.

Mr. ASHEROOK (at the request of Mr. GERALD R. FORD), for May 11, 12, and 13, on account of death in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. PUCINSKI, for 30 minutes, today.

Mr. ASHBROOK, for 15 minutes, today.

Mr. PUCINSKI, for 30 minutes, tomorrow.

Mr. TALCOTT (at the request of Mr. CONABLE), for 30 minutes, on May 12;

and to revise and extend his remarks and include extraneous matter.

Mr. McDOWELL (at the request of Mr. GRIDER), for 20 minutes, today; to revise and extend his remarks and to include extraneous matter.

Mr. SMITH of Iowa (at the request of Mr. GRIDER), for 60 minutes, on May 12; to revise and extend his remarks and to include extraneous matter.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Appendix of the RECORD, or to revise and extend remarks was granted to:

Mr. O'HARA of Illinois in three instances.

Mr. TALCOTT immediately following Mr. GUBSER in the Committee of the Whole and to include extraneous matter.

Mr. DONOHUE in five instances and to include extraneous matter.

Mr. ZABLOCKI in two instances and to include extraneous matter.

(The following Members (at the request of Mr. CONABLE) and to include extraneous matter:)

Mr. QUILLEN.

Mr. HALPERN in three instances.

Mr. DUNCAN of Tennessee in two instances.

Mr. FINO.

Mr. MOORE in three instances.

Mr. CHAMBERLAIN in two instances.

Mr. BERRY.

(The following Members (at the request of Mr. GRIDER) and to include extraneous matter:)

Mr. KEOGH.

Mr. TODD in six instances.

Mr. EDWARDS of California.

Mr. GONZALEZ in two instances.

Mr. GILLIGAN.

Mr. WOLFE in three instances.

Mr. SICKLES.

Mr. DULSKI.

Mr. ULLMAN in five instances.

Mr. UDALL.

Mr. GALLAGHER.

Mr. PUCINSKI in six instances.

Mr. MULTER in three instances.

ENROLLED BILLS SIGNED

Mr. BURLESON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 13365. An act to authorize the disposal of metallurgical grade chromite from the national stockpile and the supplemental stockpile;

H.R. 13367. An act to authorize the disposal of acid grade fluorspar from the national stockpile;

H.R. 13368. An act to authorize the disposal of blsmuth from the national stockpile and the supplemental stockpile;

H.R. 13371. An act to authorize the disposal of phlogopite mica from the national stockpile and the supplemental stockpile;

H.R. 13373. An act to authorize the disposal of muscovite mica from the national stockpile and the supplemental stockpile;

H.R. 13578. An act to authorize the disposal of rhodium from the national stockpile;

H.R. 13579. An act to authorize the disposal of thorium from the supplemental stockpile;

H.R. 13580. An act to authorize the disposal of amosite asbestos from the national stockpile and the supplemental stockpile;

H.R. 13663. An act to authorize the disposal of ruthenium from the supplemental stockpile;

H.R. 13774. An act to authorize the disposal of vanadium from the national stockpile; and

H.R. 14012. An act making supplemental appropriations for the fiscal year ending June 30, 1966, and for other purposes.

ADJOURNMENT

Mr. GRIDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 54 minutes p.m.) the House adjourned until tomorrow, Thursday, May 12, 1966, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2394. A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a resolution of the National Assembly of the Kingdom of Laos, regarding the violation of the neutrality of Laos; to the Committee on Foreign Affairs.

2395. A letter from the national commander, Civil Air Patrol, transmitting the Annual Report of the Civil Air Patrol for calendar year 1965, pursuant to the provisions of Public Law 79-476; to the Committee on the Judiciary.

2396. A letter from the Secretary of Commerce, transmitting the Alaska Highway study report, pursuant to the provisions of 76 Stat. 1149; to the Committee on Public Works.

2397. A letter from the Secretary of State, transmitting a draft of proposed legislation to promote the foreign policy and security of the United States by providing authority to negotiate commercial agreements with Communist countries, and for other purposes; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. O'BRIEN: Committee on Interior and Insular Affairs. H.R. 11777. A bill to provide for the popular election of the Governor of the Virgin Islands, and for other purposes; with an amendment (Rept. No. 1519). Referred to the Committee of the Whole House on the State of the Union.

Mr. O'BRIEN: Committee on Interior and Insular Affairs. H.R. 11775. A bill to provide for the popular election of the Governor of Guam, and for other purposes; with an amendment (Rept. No. 1520). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. House Resolution 851. Resolution providing for the consideration of H.R. 13712, a bill to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes; without amendment (Rept. No. 1521). Referred to the House Calendar.

Mr. YOUNG: Committee on Rules. House Resolution 852. Resolution providing for the consideration of H.R. 14544, a bill to promote private financing of credit needs and to provide for an efficient and orderly method of liquidating financial assets held by Federal credit agencies, and for other purposes;

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
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HIGHLIGHTS: House passed bill to permit alternate crops on acreage unplanted because of natural disaster. House debated labor standards bill.

HOUSE

1. DISASTER RELIEF. Passed as reported H. R. 15151, to permit the planting of alternate crops on acreage which is unplanted because of natural disaster, which had been reported with amendment earlier in the day (H. Rept. 1549). pp. 10727 8, 10806
2. LABOR STANDARDS. Began debate on H. R. 13712, making various amendments to the Fair Labor Standards Act, including its extension to farm labor. General debate was completed. The bill is to be read for amendment today. pp. 10731-70

3. COMMITTEE ASSIGNMENTS. Rep. Erlenborn was elected to the Education and Labor Committee, Rep. Edwards to Government Operations, and Rep. Skubitz to Public Works. p. 10727
4. RECREATION. Rep. O'Neal, Ga., objected to the proposal to charge fees for recreation at Corps of Engineers projects. pp. 10770-1
5. MILK PRICES. Rep. Nelsen said Gardner Ackley's recommendation of an increase in milk supports comes too late. p. 10785
6. SOIL CONSERVATION. Rep. Teague, Calif., spoke in observance of Soil Stewardship Week. p. 10786
7. RURAL DEVELOPMENT. Rep. Patman inserted and commended Secretary Freeman's speech at Hot Springs, Va., on rural development. pp. 10797-9
8. BUILDINGS. The Foreign Affairs Committee reported without amendment H. R. 14019, to authorize additional appropriations for Government buildings in foreign countries (H. Rept. 1551). p. 10806
9. RESEARCH. Received the conference report on S. 944, to provide for expanded research and development in the marine environment of the U. S. (H. Rept. 1548). p. 10806
10. PUBLIC DEBT. The Ways and Means Committee voted to report (but did not actually report) H. R. 15202, to limit the public debt to \$330 billion for the fiscal year 1967. p. D453

SENATE

11. MILITARY CONSTRUCTION. The Armed Services Committee reported with an amendment S. 3105, the fiscal 1967 authorization for military construction, including authorization of appropriations for payment on the debt to the Commodity Credit Corporation for foreign currencies used in prior years by the Department of Defense for foreign military family housing (S. Rept. 1185) (p. 10686). This bill was made the unfinished business of the Senate (pp. 10720-1).
12. RECREATION. A subcommittee of the Interior and Insular Affairs Committee approved for full committee action H. R. 10451, to authorize the Interior Department to transfer certain Colorado lands to the Agriculture Department for recreation development. p. D450
13. RESEARCH ANIMALS. Sen. Young, Ohio, urged legislation to correct "the intolerable conditions that now exist regarding the sale and treatment of vertebrate animals used for experimental purposes." p. 10689
14. FOREIGN TRADE. Sen. Javits spoke in support of the proposed East-West Trade Relations Act of 1966, which "would provide the President with the necessary authority to negotiate commercial agreements with Communist countries," and inserted supporting articles. pp. 10694-7
 Sen. Javits expressed concern over the "increased imports of foreign made rubber-soled footwear and shoes" and inserted a fact sheet on the import of this product. pp. 10698-9

appointed by the President, including 5 representatives from Government, 5 representatives from industry, and 5 representatives from universities, institutions or laboratories engaged in marine science pursuits, such Commission to assist the President and the Council in carrying out their previously enumerated functions.

The House amendment provided for the establishment of an independent Commission, appointed by the President, composed of 15 members, "including individuals drawn from Federal and State governments, industry, universities, laboratories and other institutions engaged in marine scientific or technological pursuits."

The bill as agreed to in conference omits the discretionary establishment of the Commission as provided in the Senate bill and conforms to the intent of the House bill for the mandatory establishment of an independent Commission.

In lieu of the provisions of the Senate bill and the House amendment relative to the composition of the Commission the bill agreed to in conference provides that not more than 5 members shall be from the Federal Government and that "the Commission shall have four advisory members appointed by the President from among the Members of the Senate and the House of Representatives." The bill provides that the advisory members shall not participate, except in an advisory capacity, in the formulation of the findings and recommendations of the Commission.

Relative to the membership of the Commission, it was the unanimous view of the committee of conference that the Commission should be as well balanced as possible as to the fields of endeavor from which the individual members are drawn so as to give the widest representation from industry, government, and the major scientific disciplines involved.

Section 7: Under the sections dealing with "Reports" in both the Senate bill and the House amendment a subsection provided that classified information should not be included in any report made under the section. No such provision is contained in the bill as agreed to in conference since there are other provisions of law which would accomplish this intent. The provision is therefore unnecessary.

Title: The House amendment to the title of the bill did not include reference to the National Council on Marine Resources and Engineering Development. The title to the bill as agreed to in conference includes such a reference.

ALTON LENNON,
PAUL G. ROGERS,
THOMAS N. DOWNING,
CHARLES A. MOSHER,
THOMAS M. PELLY,

Managers on the Part of the House.

FAIR LABOR STANDARDS AMENDMENTS OF 1966

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 851, to amend the Fair Labor Standards Act of 1938, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 851

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes. After general debate, which shall be confined to the bill and shall

continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the substitute amendment recommended by the Committee on Education and Labor now in the bill and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Florida is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Nebraska [Mr. MARTIN], and I yield myself such time as I shall consume.

Mr. Speaker, House Resolution 851 provides for an open rule with 4 hours of debate, making it in order to consider the committee substitute as an original bill for the purpose of amendment.

Members will recognize, of course, that the subject under consideration under the rule is the so-called minimum wage bill.

The purpose of H.R. 13712 is to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

This legislation proposes to cover 7,243,000 new workers. This includes 6,093,000 nonfarm workers, 485,000 agricultural workers, and 665,000 Federal employees.

The minimum wage would be raised to \$1.40, and then \$1.60 per hour by 1968, on the presently covered employees. It would start at \$1 and gradually rise to \$1.60 per hour by 1971 on the newly covered nonfarm workers. The minimum wage for the newly covered agricultural workers will begin at \$1 and go to \$1.30 by 1969. Agricultural workers are covered for the first time if their employer uses 500 man-days of labor during any calendar quarter. Members of the employer's immediate family are exempted from these provisions. Agricultural employees are excluded from the overtime provisions.

Under present law, a firm engaging in interstate commerce must have an annual gross volume of \$1 million to be covered under the act.

With the passage of this bill the amount will be reduced to \$500,000 by 1969, and then to \$250,000 thereafter.

A laundry or dry cleaning establishment will have no volume business under which it is exempted, nor will a hospital, nursing home, institution of higher learning or construction firm.

On the other hand, as the able chairman of the subcommittee who has done such a splendid job in the fashioning of this measure and bringing it to the floor, the gentleman from Pennsylvania [Mr. DENT], testified at the hearings before the Education and Labor Subcommittee

conducting the hearings, this bill will cover the restaurant and hotel industry for the first time in the history of such legislation, but after negotiations, which have been carefully and sympathetically carried on by the able gentleman from Pennsylvania [Mr. DENT] with the representatives of industry and the representatives of the labor groups employed in the hotel and restaurant industries.

The minimum wage for restaurant workers will start at \$1 an hour; 35 percent of that amount could come from tips. When it reaches \$1.30 an hour or above, they will be able to count 40 percent of the minimum wage as tips. When it reaches \$1.60 or above, they could count 45 percent.

The overtime provisions of the bill do not apply to the hotel and restaurant industries.

Mr. Speaker, I hope I may be permitted a moment of reminiscence, as I say I have somewhat the feeling that this is where I came in, in presenting today the rule which will bring this proposed new minimum wage maximum hour legislation to the floor of the House.

In 1938 the first proposed minimum wage maximum hour act by the Federal Government agitated the Congress and the country. I happened to be running for a full term in the other body at that time. After deliberating upon what was involved in the measure, I committed myself strongly in support of that proposed legislation.

The minimum wage which was provided in that legislation of 1938, it may be a shock to some to recall, was 25 cents an hour. I found, in going about over my State of Florida, that prior to that time there were industries—which naturally objected to the minimum wage of 25 cents an hour—which paid as low as 9 cents an hour to their employees. Many of those proprietors I believe were, with the utmost of sincerity, strongly of the feeling that if that Federal legislation were enacted and if they were required to pay a minimum wage of 25 cents an hour their businesses would be ruined. They fought bitterly in that campaign against me because I was definitely and irrevocably committed to support that legislation.

I will say to my friends here from the South, my native land, they charged against me that I was a traitor to the South to advocate such legislation, that I was ignorant of the true character of the economy of the South, that if I knew better the real nature of the economy of the South I would understand that nature and all the various economic forces which had made our past had fashioned us into a region where we were supposed to be the producer of raw materials. We were the drawers of water and the hewers of wood for the economy of the country, they said, and our role in the national economy was to send our raw materials to the industrial areas of the country, to have them processed and shipped back to us, to be consumed by our people.

Furthermore they said that our economy could not stand a minimum wage of 25 cents an hour. I disagreed with those beliefs and those conclusions and, as strenuously as I could, tried to present

the affirmative in justification of that legislation in 1938. Fortunately, I prevailed. There were some who thought that the outcome of that campaign which led to my picture, if I may say so, being on the front page of *Time*—not to glorify me but to provide a showing that the outcome of my election would be a sort of criterion of the Roosevelt program of that time and particularly of the minimum wage law—and particularly as to whether a man could be elected in the South and still advocate the minimum wage law.

Fortunately, I was elected. There are some who say that that election may have had some influence on this House's reporting out the minimum wage bill at that time and its later enactment of that legislation. I was on the conference committee between this body and the other body which helped to write the legislation in its final form. I always tried to protect, in any legitimate way I could, the South, because it did have problems, some of which partially remain. One of those problems was the discriminatory system of freight rates, which often meant a shipper paid more for an equivalent haul than was paid by shippers in other parts of the country. A lot of that burden, though, has been diminished in the ensuing years.

This was in 1938. No part of the Nation profited more than the South from the minimum wage legislation.

Then, in 1949 I had the honor to be in charge of the bill in the other body which came from the Committee on Education and Labor of that body, and was enacted by that body and by this House, which was the first improvement or the first step forward in minimum wage legislation; that is, raising the minimum wage to 75 cents an hour from 40 cents an hour which the minimum wage had reached under the procedures provided in the 1938 legislation by 1943.

When we held our hearings on the 75-cent-an-hour minimum wage bill there were no wrecked industries from the 1938 legislation to exhibit their financial corpses. There was none to lament before our committee, that I heard, that we tragically committed an error in 1938 in adopting the first law. There was less opposition, at least in the other body and before my Committee on Education and Labor, to the passage of the minimum wage law of 75 cents an hour in 1949 than there was to the passage of the first law providing for a minimum wage of 25 cents an hour in 1938.

Later on, in the early sixties, the minimum wage was raised to \$1.25 an hour. That is the minimum wage prevailing at the present time. Of course, there is always the additional question of coverage. How far out do you reach? This time this bill goes further than any legislation ever heretofore attempted in reaching many new industries. Laundries, hospitals, cleaning establishments, hotels, restaurants, processing of agricultural commodities and horticultural products in their natural state, and agricultural labor and other areas are covered in this bill now before the House.

Mr. Speaker, in addition I only want to give one little illustration if I may.

I recall hearing a man representing the Department of Labor say that prior to the passage of the minimum wage law of 1938 he had traveled through south Georgia, my mother's birthplace, and through north Florida, my old home. In those days in the commissaries of the lumber companies or the naval stores operators, there was no place at all where you would find a meat section. The only kind of meat they had to sell was what we southerners know as white meat. Sow belly it is called, to use a little bit stronger phrase. That is the only kind of meat they had to sell. However, this inspector for the Wage and Hour Administration said after the minimum wage law of 1938 became law and a little while later when he went through those same areas and went to those same commissaries he found areas where they had refrigeration and where good meat was kept for sale in that establishment, because those working people getting a little larger wage were able to eat a little better than they previously had been eating.

Mr. Speaker, I believe that various legislative actions which have been taken with respect to minimum wage legislation have been wisely taken, step by step. I do not believe its progress has ever been too precipitous or too extreme.

Mr. Speaker, while there are certain details here upon which we may differ—some on which I have not made any final conclusion—the basic principle of this bill is a sound one, indicated by experience and its application in this country since 1938.

Mr. Speaker, when the chairman of the distinguished subcommittee, the able gentleman from Pennsylvania [Mr. DENT], appeared before the Committee on Rules, I said, "Tell me—I have had a little experience with the subject—how many witnesses did you have before your committee to tell you how gravely they had been injured as a result of the enactment of the 1938 minimum wage bill or the bill which was enacted in the early 1960's?"

Mr. Speaker, the gentleman from Pennsylvania said, "We had none."

So, therefore, Mr. Speaker, I am a little bit skeptical, I am a little bit curious, I have to be convinced when I hear those who are affected by every proposed step forward in this kind of legislation, say with great earnestness and in most instances with quite a genuine sincerity, "If this bill is adopted, I will be ruined; my industry will be destroyed; my business will be wrecked."

Mr. Speaker, I venture to say that that has not generally been the experience of the past.

Therefore, Mr. Speaker, I believe that this bill which this rule if adopted, would bring before the House has merit; that it commands the concern and I believe generally the support of the Members of this House.

Mr. Speaker, I therefore believe that the rule should be adopted and I hope it will be adopted by the Members of the House.

Mr. MARTIN of Nebraska. Mr. Speaker, I yield myself 15 minutes.

(Mr. MARTIN of Nebraska asked and

was given permission to revise and extend his remarks.)

Mr. MARTIN of Nebraska. Mr. Speaker, House Resolution 851 provides for an open rule and 4 hours of debate on H.R. 13712, amendments to the Fair Labor Standards Act of 1966.

Mr. Speaker, although I opposed the rule in the Committee on Rules, I am in favor of granting the rule on the floor of the House today.

Mr. Speaker, as a member of the Committee on Education and Labor, in addition to being a member of the Committee on Rules, and as a member of the subcommittee which has considered this legislation for the past 12 months, I want to talk to the Members this afternoon in regard to some of the provisions of these amendments as proposed in this bill. I believe many of them are inequitable and unfair.

Mr. Speaker, as the gentleman from Florida [Mr. PEPPER] stated a few moments ago, this bill goes much farther than any other piece of legislation in this field that has ever been presented to the Congress.

Mr. Speaker, let us go back a year ago last Wednesday, to May 18, 1965, when the Congress received President Johnson's message in regard to labor legislation.

Mr. Speaker, I would like to quote from that message, received from President Johnson, in regard to this legislation which we now have pending before us, and I quote:

I am accordingly urging early action to amend the Fair Labor Standards Act, to extend its provisions to an additional 4.5 million workers and restrict excessive overtime through the payment of double time.

I quote further from the President's message:

It has been urged that the minimum wage level be increased. The present \$1.25 hourly rate results in annual earnings, assuming full-time work throughout the year, of only \$2,500. As average wages rise the minimum wage level should be increased periodically. The question is not whether the minimum wage should be increased but when and by how much. The Congress should consider carefully—the Congress should consider carefully the effect of higher minimum wage rates on the incomes of those employed and also on costs and prices and on job opportunities likely for the flood of teenagers now entering our labor force.

The President continued:

I do not think the time for change in the law has come except with respect to excessive overtime.

Our subcommittee had extensive hearings, in regard to the excessive overtime provisions as was proposed in the administration bill which was introduced by the chairman, the gentleman from New York [Mr. POWELL], and the then chairman of the subcommittee, Mr. Roosevelt of California. That bill provided for double time.

After the conclusion of many weeks of hearings and the testimony of many, many witnesses, it was decided in the wisdom of the subcommittee that double time for overtime should be eliminated. As a consequence, it is not included in this legislation which we have before us today.

Let us take a look at the legislation we have before us and its provisions.

According to the estimates, 7,236,000 additional employees in the United States would come under the provisions of the Fair Labor Standards Act.

This subcommittee reported out a bill last September when Mr. Roosevelt was chairman, and the bill which Mr. Roosevelt reported out included coverage for 7,929,000 additional employees.

In other words, there is a net difference or reduction in the Dent-Bell bill—I understand it is called the Dent-Bell bill—of 686,000 employees.

But let us pause just a moment, let us take a look at the agricultural coverages in the two bills.

Mr. Roosevelt's bill proposed to cover for the first time 1.3 million agricultural workers.

Mr. DENT's bill proposes to cover, according to the estimates, 485,000 agricultural employees.

So we have a decrease in agriculture of 815,000 in the coverage.

Now we had a difference in the two bills in toto of 686,000.

So you can see this Dent-Bell bill actually covers 129,000 more people outside of agriculture than did the Roosevelt bill which we had reported to us last year.

Under the present act, a retailer has an exemption unless he does a million dollars or more in business a year—he has a million-dollar sales exemption. The current minimum wage is \$1.25.

Under this proposed legislation today that enterprise exemption would be reduced to \$500,000 effective February 1, 1967. Two years later, February 1, 1969, it would drop to \$250,000. That is the enterprise exemption.

The minimum wage for presently covered employees would be increased from the current \$1.25 an hour effective February 1, 1967, to \$1.40 an hour and on February 1, 1968, to \$1.60 an hour. That is an increase, Mr. Speaker, in the first year of 12 percent and in the second year of 14 percent. Or if you want to take it over about a year and one-half, an increase from \$1.25 an hour to \$1.60 an hour, you have a total increase during that period of time of 28 percent.

Well I happen to be in a position today, Mr. Speaker, of defending the administration—a peculiar perhaps and unusual situation for me. But nevertheless the President through his Council of Economic Advisers has set the guidelines for wage increases at a maximum of 3.2 percent.

Yet, we are here today enacting legislation that is going to increase the wages of those affected by 12 percent in the first year and 14 percent in the second year—completely violating the President's guidelines in regard to the increase in wage scales.

What about the newly covered employees, those who will come under the bill for the first time, the 7.2 million employees. Their minimum wage will start at \$1 an hour effective February 1, 1967. Then it will go to \$1.15 on February 1, 1968, and increase in 15-cent in-

crements each year, until it reaches \$1.60, effective February 1, 1971.

Again, over a 4½-year period, you have a 60-percent increase in the wage scale from the starting point of \$1 to \$1.60 under the provisions of this legislation.

I propose to offer an amendment to cut back on this increase from \$1.40 and \$1.60 in the bill to \$1.35 and \$1.50 to ease the burden on these businessmen who will suffer under this legislation.

Remember, you are going to get to the small businessman, the little fellow, this time because you are reducing this exemption in the retail area to \$250,000 from the current enterprise exemption that is in the present act of \$1 million.

Studies have been made in regard to what the passage of minimum wage laws do as far as unemployment is concerned, particularly among our teenagers, the unskilled. This is from the Economic Report of the President in January 1966:

The unemployment rate among our teenagers, those between 14 and 19, in the 1955 to 1957 years, was 10.5 percent. But in 1965—and September of 1965 was when the last increase of 10 cents an hour went into effect from the 1961 amendments, we had an unemployment rate among the same teenagers of 13.6 percent. So you can see that with the passage of this legislation, at the times this act has been amended, the unemployment rate among those who need work the most has increased.

I have here a copy of a story published in the Wall Street Journal on September 7, 1965, last fall. It is headlined "Last Section of 1961 Minimum Wage Law Takes Effect. Brunt Is Felt in Southeast." It is datelined Atlanta.

Let me read you the first paragraph:

The last section of the Minimum Wage Law that Congress passed in 1961 went into effect with little fanfare Friday, but its impact was quickly felt in the Southeast.

The 18 packing plants that make up the fresh crab meat industry in North Carolina closed rather than raise the pay of 1,800 pickers, nearly all women, to the \$1.25 minimum. "It's been tough for a long time—this was the straw that broke our backs," a packing plant owner says.

I quoted from that article in my minority views in the report, and shortly after the report was printed, Mr. Lundquist, the Administrator of this program downtown, wrote me a letter and stated that after 30 days of negotiation they were able to open most of these plants in North Carolina. I hope that they are working today.

But what is going to happen, Mr. Speaker, when this 15-cent increase goes in effect, 12 percent on February 1, 1967, to these 18 packing plants in North Carolina and many other similar businesses throughout the United States? You do not hear about those and the statistics that this brings about on the unemployment side.

I mentioned the enterprise exemption, which drops to \$500,000, and in 2 years to \$250,000. This applies across the board, except, as always, there are a few exceptions. Do you know what the ex-

ceptions in the bill are? Laundries, dry-cleaners, and those in the construction business have no exemption in regard to sales. Heretofore laundries and dry-cleaners have been exempt from the provisions of the act. But this exemption that is allowed to all other businesses is not allowed to laundries and to dry-cleaners. A little drycleaner down here on Pennsylvania Avenue or on the main street of your hometown that employs one or two people in a shop, and that might do \$5,000 in total sales a year, maybe \$8,000 or \$10,000, will be covered under the provisions of this act.

Let me give another illustration. In many towns of our country, particularly the smaller communities, we have had ladies who have been doing the washing for various families—perhaps your family and mine—for many, many years in their homes. That would be classified as a laundry if the woman who operated that little service for you happened to employ a neighbor or someone else to come in and help her. She would come under the Fair Labor Standards Act. Yet she might only do a few hundred dollars' worth of business in a year's time.

Mr. ABERNETHY. Mr. Speaker, will the gentleman yield?

Mr. MARTIN of Nebraska. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. Mr. Speaker, does expansion of the minimum wage under this bill apply to a smalltown pressing shop, as we call it, which may operate with a couple of pressers and one cleaner?

Mr. MARTIN of Nebraska. It does.

Mr. ABERNETHY. To a shop operated, perhaps, by a man and his wife, and employing perhaps only two others?

Mr. MARTIN of Nebraska. That is right. If they have any employees outside the family, that would be covered.

Mr. ABERNETHY. There is no exemption at all, no matter how small?

Mr. MARTIN of Nebraska. Yes, that is correct.

Mr. ABERNETHY. No matter how small a shop it might be, it is covered under this bill?

Mr. MARTIN of Nebraska. That is correct.

I intend to offer an amendment to put them on an equitable basis, along with all other businesses who will enjoy this test exemption of \$500,000 and \$250,000. It is not in the bill as presently written.

Mr. ABERNETHY. How does it affect workers in smalltown restaurants? Are they also covered?

Mr. MARTIN of Nebraska. I will come to that. Hotels, motels and restaurants, which have been exempt under the provisions of the act, will be brought into it for the first time. They will have to pay the minimum wage, which starts at \$1, and then goes to \$1.15, and so on, for newly covered employees. But these restaurants and hotels and motels will be exempt from the overtime provisions of the bill.

Mr. ABERNETHY. But it applies to all of them, irrespective of size or the number of employees?

Mr. MARTIN of Nebraska. No. It will still have the enterprise test applied to hotels and motels. They will have that exemption in the enterprise test.

Mr. ABERNETHY. I thank the gentleman.

Mr. MARTIN of Nebraska. But in regard to the manner in which this bill is written, and in which hotels, motels, and restaurants are exempt from overtime, we find hospitals, which heretofore have been exempt under the present act, are going to be forced to pay overtime to all of their employees.

Most of the hospitals are nonprofit institutions. They are in a very serious position as far as breaking even on their operation. This very adversely will affect the operation of hospitals in the United States.

Mr. ABERNETHY. Mr. Speaker, will the gentleman yield?

Mr. MARTIN of Nebraska. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. Mr. Speaker, I think the gentleman answered by question when he said that every hospital would be covered regardless of size.

What about the nursing homes operated under the same roof as the hospitals?

Mr. MARTIN of Nebraska. Nursing homes will be covered also.

Mr. ABERNETHY. I thank the gentleman.

Mr. MARTIN of Nebraska. Mr. Speaker, I intend to offer an amendment in this regard, to equalize this treatment of hospitals with other business, and exempt them from the overtime provisions of the act.

Let me come to what I consider one of the main sections, and one of the more serious sections of this bill, the agricultural coverage.

Agriculture traditionally has not been covered under the Fair Labor Standards Act. Under this bill there are provisions for coverage with certain exemptions. The exemptions are as follows.

Any farm or ranch in the country, which employs sufficient labor in a peak calendar quarter of the previous year, which required the employment of 500 man-days or days of work during that quarter, will come under the provisions of the minimum wage law.

The minimum wage will start at \$1 an hour on February 1, 1967, will go up to \$1.15 on February 1, 1968, and then will go to \$1.30 in 1969. Credit will be given in regard to the value of any housing, room and board or meals furnished to an employee on the farm, with the determination as to the value of these fringe benefits to be made by the Secretary of Labor here in Washington, D.C.

I have an amendment at that point, that the determination shall be made at the State level by the appropriate agency within the State government, rather than here in Washington, D.C., which I believe will give us a more realistic determination.

Mr. ABERNETHY. Mr. Speaker, will the gentleman yield?

Mr. MARTIN of Nebraska. I am glad to yield to the gentleman from Mississippi.

Mr. ABERNETHY. Does the gentleman intend to offer an amendment to strike out the entire reference to farm labor, and to leave that where it is?

Mr. MARTIN of Nebraska. Yes. I intend also to offer an amendment to strike out the entire agricultural section, all the way through the bill.

There has been some talk around, and perhaps some press statements made, that a farm would be covered only if there were more than seven permanent employees. This is not correct. A person could have one permanent employee and be covered under the agricultural provision of this bill as it is currently written.

Members should remember that the requirement is 500 man-days per calendar quarter. If a man brought in some seasonal workers in his agricultural operation, to pick the fruit—apples, strawberries, pears, or whatever it might be; and out in our territory of Nebraska we have seasonal sugarbeet workers—if there were 20 workers who came in and worked 25 days, that would amount to 500 man-days. There might be only one permanent employee on the farm, but if this farm had reached the 500 man-days per calendar quarter in the previous year, then the farm would come under the provisions of the Fair Labor Standards Act.

There is not anything here as to the number of employees.

Mr. ABERNETHY. Will the farm ever come out from under, once it gets under?

Mr. MARTIN of Nebraska. That is unclear in the bill as it is now written, as to whether the farmer would come from under the coverage the following year if he did not have the 500 man-days in the previous year.

Mr. ABERNETHY. What if the farm should change hands, or if there were a division of the farm?

Mr. MARTIN of Nebraska. That is another point which is unclear in the legislation.

Mr. ABERNETHY. That was the way I found it, when I read the provision. There are many different changes that could take place. One would be unable to determine whether the farm would remain under, or for how long.

Mr. MARTIN of Nebraska. That is correct.

The SPEAKER pro tempore (Mr. ALBERT). The time of the gentleman from Nebraska has expired.

Mr. MARTIN of Nebraska. Mr. Speaker, I yield myself 5 additional minutes.

Agriculture is already in dire economic straits in this country. To pile on coverage under the Fair Labor Standards Act in regard to agriculture will bring severe repercussions to our agricultural economy throughout the entire country.

One might say, "Well, \$1 an hour is not very much, to start with. We are paying \$1 an hour in our State."

In most States this is done. In many States it is above \$1 an hour.

But let us not forget, Mr. Speaker, this is only a foot in the door approach. This is \$1, \$1.15, and \$1.30. It is the same schedule of increase as for the newly cov-

ered employees, except that they go on for two more steps, up to \$1.60.

What would prevent the next Congress—and if we look back in history we know this is what will happen—from coming in with legislation to increase the agricultural wage to \$1.75 or even \$2, and to include overtime, because overtime is exempted in regard to agriculture under this bill?

What would that do on our farms, if it were necessary to pay time and a half or double time for more than 40 hours a week? We know how the farmers work. They get up at sunup, during the growing season, and they work until sundown.

It is ridiculous, but this is the kind of thing which we will face in the future, if we permit agricultural coverage to get by in this bill.

As I stated to the gentleman from Mississippi a few moments ago, I intend to offer an amendment on the floor to strike the entire agricultural section.

There is little doubt that an increase in the minimum hourly pay would cause employers to discharge workers who are unable to earn the higher wages.

If management decides that the productivity of a worker is below his wage payment he would probably be discharged. Profit consideration would dictate such a decision. It should be kept in mind that we live in an economy in which profits have a vital role to play.

It is true that historically, as the wage minimum has been lifted, there has also been an expansion in employment. But such expansion can hardly be attributed to minimum wage laws. It has been caused mainly by factors such as the application of increased amounts of capital and the continuing improvement of mechanical devices that have raised the productivity of labor. These factors have made possible higher wages for all labor groups. In other words, the rising wage level has been the effect rather than the cause of economic progress.

Let me quote from a recent statement made by Prof. James Tobin, formerly President Kennedy's economic adviser:

People who lack the capacity to earn a decent living need to be helped, but they will not be helped by minimum wage laws, trade union wage pressures, or other devices which seek to compel employers to pay them more than their work is worth. The more likely outcome of such regulation is that the intended beneficiaries are not employed at all.

Dr. Arthur F. Burns, formerly chief of President Eisenhower's Council of Economic Advisers in his book, "The Management of Prosperity," stated:

The broad result of the substantial increases of the minimum wage in recent years has been a curtailment of job opportunities for the less skilled workers.

And his calculations indicated that another increase of 25 cents in the minimum wage would be likely to raise the unemployment rate of nonwhite teenagers by as much as 8 percentage points.

Who suffers most when the minimum wage is raised? The very people whom the higher wage is intended to help—Negroes, Puerto Ricans, unskilled workers and teenagers. After each minimum

wage increase during the past two decades, unemployment among those groups has shot up precipitously. The record proves this. A recent news dispatch emphasizes this:

Puerto Rico's Secretary of Labor expressed concern that 27,000 jobs in the island would be endangered if the minimum wage law reportedly agreed upon by the administration and congressional Democrats.

Puerto Rico's secretary of labor is against this wage increase because it will reduce job opportunities of the poor.

I want to close these remarks by quoting from Dr. Gottfried Haberler, distinguished Harvard University economic professor, who is known to choose his words carefully on statements on economics:

Raising the minimum wage would be an irresponsible antisocial measure, reducing job opportunities of the poor, promoting inflation and retarding growth.

Mr. Speaker, the Congress, by legislation, cannot increase jobs in this country, but they can, by enactment of harmful legislation, decrease considerably the job opportunities for those most in need of work. I am realistic enough to realize that you have the votes to pass this bill, but I hope that you will give careful consideration and support to the amendments which I intend to offer tomorrow.

Mr. MARTIN of Nebraska. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. AYRES].

Mr. AYRES. Mr. Speaker, we are here today considering amendments to the Fair Labor Standards Act because of what transpired in this body in the spring of 1961. It was at that time that the amendment to the Fair Labor Standards Act commonly known as the Kitchin-Ayres amendment passed this House. However, the other body passed a bill that established the principle on which we are expanding here today. And, then, when we went to conference, the position of the other body prevailed.

Mr. Speaker, in the spring of 1961, the vote went like this:

On a teller vote on the substitute, the vote was 206 to 162. On a rollcall vote it was 196 to 224 on the adoption of the so-called Kitchin-Ayres amendment.

Then on final passage, the House, by a vote of 341 to 70, passed the existing amendment to the Fair Labor Standards Act.

Mr. Speaker, at that time many of us predicted that the \$1 million volume test would not hold very long, and that the next time we came back to this body, we would be asking for a reduction in that dollar volume, which we are doing today, bringing it down to \$500,000. And, then, we will lower it later on to \$250,000, and eventually, I predict in 4 or 5 years, we will be back here removing all of the dollar volume ceiling.

So, actually, Mr. Speaker, it is a moot question as to whether or not this bill is going to pass. It is. Because, 3 years ago, when there was great controversy as to the formula, the House adopted the conference report, after the provisions of the other body prevailed. There is no doubt that this bill will pass.

However, Mr. Speaker, there will be a number of amendments offered. Last

week I sent a memorandum to every Member, not in a partisan way, but in an explanatory way, of the amendments that I am sure will be offered. It has now come to my attention that there will be other amendments offered.

However, since there will be a number of amendments, I would suggest that the Members familiarize themselves with the explanations now so that there will not be any misunderstanding when these amendments are offered.

Frankly, I shall only have one amendment, which deals with the Government service contracts, which will be found in section 305 of the bill. This amendment, if adopted, would it make it necessary for a business to do more than 50 percent of its gross sales on Government contracts, if the higher minimum wage should apply? This will be explained in detail in general debate.

It is my understanding that a very important amendment dealing with the minimum wage provisions on the presently covered employees, extending the time period for increasing their minimum will be offered by the gentleman from New Mexico [Mr. MORRIS].

It is also my understanding that amendments will be offered by the gentleman from New York [Mr. GOODELL] dealing with tips and tipped employees and agricultural processing.

Also, Mr. Speaker, the Members have heard about the agricultural employees. There will be an amendment offered by the gentleman from Tennessee [Mr. GRIDER] dealing with carwash employees, and an amendment offered by the gentleman from Florida [Mr. GURNEX] dealing with restaurant employees.

Also, Mr. Speaker, there will be a very important amendment, I understand, offered, dealing with Puerto Rican employees.

Mr. PEPPER. Mr. Speaker, I yield 2 minutes to the able gentleman from California [Mr. HOLIFIELD].

(Mr. HOLIFIELD asked and was given permission to revise and extend his remarks.)

Mr. HOLIFIELD. Mr. Speaker, I have listened to the gentleman from Nebraska [Mr. MARTIN] talk in the well of the House and my mind went back over the years, since 1943 when I first came to the Congress, when the minimum wage was 40 cents at that time. Then, along in 1949, the Congress raised it to 75 cents, and then in 1961, by two steps, we raised it from \$1.15 to \$1.25 per hour.

Mr. Speaker, we had the same arguments in the well of the House every time we have made an attempt to give to the American people purchasing power in a society where if we do not have purchasing power the entire system will grind to a stop.

The factories which operate in our cities and employ people to make goods have to sell those goods, and they have to sell them to people who work on the farm the same as to people who live in the cities.

I have heard prophecies of doom, that this is going to tear down the whole structure of our society if we pay people a decent wage. Every time these predictions of catastrophe have been made, they have not come true.

The American people have made more money and have bought more goods from the farm, and they have bought more food in the cities.

So I do not put a great deal of stock in these prophecies of doom when it comes to giving a person a raise from \$1.25 to \$1.40 an hour—which amounts to 15 cents an hour.

My friends on the Republican side who are always talking about the depreciation of the dollar, they should look at this question of the depreciation of the dollar in terms of the purchasing power of today. Let them try to make up a little bit for this depreciation in the purchasing power of the dollar by giving them a few more dollars.

The SPEAKER pro tempore (Mr. ALBERT). The time of the gentleman from California has expired.

Mr. PEPPER. Mr. Speaker, I yield another minute to the gentleman from California.

Mr. HOLIFIELD. Mr. Speaker, it is very disturbing to be cut off in the middle of such a fine oration.

But, Mr. Speaker, I will just say in closing that I have no fear at all about giving the people of America 15 cents an hour more in certain categories and then next year giving them another 20 cents.

That money will be fed back into the stream of the consumption of goods which, in turn, means we will have more production of goods and have a higher standard of living in America.

So I say to those of you who are weak in your faith, buck up your faith—and let us go forward to give these people decent wages whether they be people on the farms or in the factories.

Mr. PEPPER. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. MADDEN].

(Mr. MADDEN asked and was given permission to revise and extend his remarks.)

Mr. MADDEN. Mr. Speaker, the Committee on Education and Labor is to be commended for reporting this long-delayed legislation increasing the minimum wage for certain classified groups of employees whose income has fallen far behind the American standards.

During my service in the Congress of over 20 years, I have supported, at different intervals, practical minimum wage increases so millions of low-wage families can feed, clothe, and educate their children. Each advance of income for needy families has increased the national buying power of millions which has resulted, indirectly, in increased employment, increased purchasing power, and also increased the tax income for the Federal Treasury.

I have also observed that minimum wage increase has not jeopardized business prosperity because, over the years, profits in business has enjoyed a general rise.

Minimum wage presently covers approximately 29½ million American workers. The present bill will extend new coverage to approximately 6 million industrial, retail or so-called urban employees, and approximately 480,000 underpaid rural workers. It will also increase Federal workers approximately in the number of 665,000.

During the last 20 years the minimum wage has advanced from 40 cents an hour in 1944 to 75 cents an hour in 1950, to \$1.25 an hour in 1963. The present legislation raises the minimum wage from \$1.40 an hour which takes effect in February of next year, and \$1.60 which will not take effect until 1968.

The Education and Labor Committee had extended meetings, lasting several weeks, hearing testimony from industry, retail, Federal, agriculture and others covering different segments of our economy. The gentleman from Pennsylvania, Congressman DENT, the chairman of the Subcommittee on Minimum Wage, testified before the Rules Committee stating that the vast majority of restaurant employers are satisfied by a compromise reached on this legislation regarding the complicated problem of restaurant employees whose substantial income is from tips, and so forth. This bill also covers overtime protection to many workers formerly not covered for overtime work.

When consideration is given to the gradual rise in the cost of living over the last 20 years, one readily sees that millions of workers who have families to support, clothe, and educate cannot keep pace unless their incomes are increased to meet modern demands. All specialized workers, craft unions, and many other segments of our working economy can meet this added living expense because their income is far in excess of the 16-odd million who have not been protected by minimum wage to keep pace with our Nation's abundant economy.

This legislation is not being opposed by many segments of American employers for the reason that over the years they have gradually realized that the greater our Nation's buying power, the more business will exist in the factories, retail stores, and other lines of business and production.

The bill would extend minimum wage coverage under the act to some 6.3 million additional workers, principally in such low-wage industries as laundries, restaurants, hotels and motels, hospitals, nursing homes and related institutions, and retail stores. The minimum wage for these employees would start at \$1 an hour and would be increased by 15 cents an hour each year until February 1968, when the minimum wage for these employees would be fixed at \$1.60 an hour. In addition, the bill would bring under the protection of the Fair Labor Standards Act for the first time some 485,000 farmworkers for whom the minimum wage would be fixed at \$1 an hour next February and would be raised to \$1.30 an hour in February 1969.

Employers whose volumes of sales are less than \$250,000 and who do more than 50 percent of their business within the State in which they are located, are exempted from the minimum wage and overtime provisions of the act.

On last Wednesday, May 18, at a meeting of the House Democratic steering committee, a resolution was adopted supporting the pending bill, H.R. 13712, known as the minimum wage legislation.

Our gross national product or our economy has increased from \$202 billion in 1946 to over \$700 billion today. Our

national debt has increased from \$270 billion in 1946 to approximately \$323 billion in 1966. In other words our economy or production has increased about \$500 billion in 20 years and our national debt about \$50 billion.

Profits received by industry and business have increased fabulously annually in 20 years.

Why not give millions of low-wage families 15 to 25 cents an hour increase so they can provide for and educate their families during this expanding economy and high cost of living conditions?

I do hope that no major amendments will be adopted which will cripple or curtail this legislation. The passage of this bill will not only benefit the employee recipients, but also the employer and the general economy and prosperity of our Nation.

(Mr. MADDEN asked and was given permission to revise and extend his remarks.)

Mr. PEPPER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. BARRETT].

(Mr. BARRETT asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. BARRETT. Mr. Speaker, I rise in support of an increased minimum wage to give honest American working men and women at least a minimum adequate income. How can we expect the American workingman to live up to his responsibilities as a citizen and to raise his children in decent conditions on starvation wages? This Nation—the wealthiest on earth—has faced up to its obligations through local welfare programs and through efforts such as the rent supplement program to provide decent living conditions for underprivileged families. I have always supported these efforts and I always will but at the same time, I recognize that the basic problem is low income.

The root of most of our domestic social problems is the fact that many of our fellow citizens—hard working, industrious Americans—simply do not receive fair payment for their work. Who, among us, would be satisfied to do the hard labor that is required to keep our economy going and be willing to settle for a life in the slums and too little food on the table? Every single Member of this House would rebel against that, but, today, we find people opposed to granting wages commensurate with the hard work.

There are those who, in all sincerity, oppose minimum wage legislation because of their belief that it may result in layoffs of workers and unemployment. To them, I say, look at the record. The fact is, total employment today is at the highest level in history and unemployment rates have been sharply reduced in recent years. While there may be some basis for concern in very specialized circumstances, I feel that it is those cases which should adjust to the rest of the country. We cannot deny the benefit of a reasonable floor for wages to the millions of workers who would benefit just because there are a few backward places or industries which are far below American standards.

This bill is needed not only in the in-

terests of justice for our own citizens but it is needed to support America's position of leadership in the world. One of the bonds of all free nations is the example we set by the high level of living standards under our free enterprise system. We cannot maintain that position as long as millions of American workers fail to share in our record-breaking national prosperity.

I ask those of you who oppose this measure to think for 1 minute of the kind of work that people do for minimum wages and the kind of life they lead and I ask you then how you can, in good conscience, vote against these millions of your fellow citizens. By voting today in support of a higher minimum wage, you can relieve the Federal Government of very substantial amounts of necessary aid to our lowest income groups. If the opposition will not listen to humanitarian reasons, let them listen to a good dollar and cents reason.

I hope the day will come when I do not have to come before this House and plead for a housing bill because the American workingman by then will be earning the adequate wage which he so richly deserves and can raise his family in decency and dignity without public aid.

Mr. PEPPER. Mr. Speaker, I shall not endeavor to reply to all of the detailed observations made by the able gentleman from Nebraska because they will all be covered in the debate upon the various sections and segments of the bill. However, I would like to answer one question which the able gentleman seemed to be in some doubt about, which was propounded to him by the gentleman from Mississippi [Mr. ABERNETHY], who asked the able gentleman from Nebraska whether or not an employer who was an agricultural employer, once having been in the 500-man-day category, could ever get out.

I think the able gentleman from Nebraska told him he did not think he could, or he was not sure.

May I call your attention to page 40 of the report of the committee, which reads in part as follows:

With respect to any other agricultural employee, the minimum wage coverage depends on whether his employer used during any of the four preceding calendar quarters during the preceding calendar year more than 500 man-days of agricultural labor performed by employees (other than employees excluded from the definition of the term "man-day").

So that the determination of whether a certain employer is required to pay the minimum wage to his agricultural employees is respecting his status in a quarter of the previous calendar year.

Mr. Speaker, by leave of our distinguished Speaker, I am permitted to read for the RECORD, if I may, a letter to the able Speaker from the Secretary of Labor. It is dated May 23, 1966:

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, May 23, 1966.

HON. JOHN W. MCCORMACK,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: The House of Representatives has before it for action H.R. 13712, extending the coverage of the Fair Labor Standards Act to an additional 7.2 million

employees, and increasing the minimum wage levels.

It has been my privilege and honor to testify on several occasions before the Committee on Education and Labor in support of the President's recommendations to the Congress regarding these changes in the Fair Labor Standards Act. I also reported to you and to the President of the Senate on January 31, 1966, regarding the need for such improvements.

Please permit this expression of respect and gratitude for the reception of these views, and the fervent hope that H.R. 13712 will receive the full endorsement of the House. It represents, in my judgment, a completely constructive and responsible reconciliation of the various interests affected, particularly in the provision for a minimum level for previously covered employees of \$1.40 in 1967, and \$1.60 in 1968. All information and evidence at my command supports the view that any postponement of these increases would be a serious disservice to the public interest.

Respectfully,

W. WILLARD WIRTZ,
Secretary of Labor.

Mr. Speaker, I have no further requests for time. If the able gentleman from Nebraska has no further requests, I move the previous question.

The previous question was ordered.

CALL OF THE HOUSE

Mr. ANDREWS of North Dakota. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. PRICE. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 109]

Ashbrook	Gialmo	O'Hara, Mich.
Ashley	Green, Oreg.	O'Konski
Baring	Hall	Pool
Brown, Calif.	Hamilton	Purcell
Cahill	Hanna	Reid, Ill.
Callaway	Hansen, Idaho	Reid, N.Y.
Carey	Hansen, Iowa	Reifel
Carter	Hardy	Rooney, N.Y.
Clark	Harsha	St Germain
Clawson, Del	Hébert	Sickles
Cohelan	Henderson	Smith, N.Y.
Colmer	Irwin	Steed
Conyers	Kirwan	Stratton
Cooley	McMillan	Stubblefield
Corman	MacGregor	Toll
Dawson	Martin, Ala.	Tupper
Diggs	Martin, Mass.	Ullman
Dowdy	Miller	Watts
Duncan, Oreg.	Moeller	White, Idaho
Dyal	Moorhead	Whitten
Edwards, Calif.	Morton	Williams
Farnsley	Moss	Willis
Fisher	Murray	Wilson, Bob
Fogarty	Nix	Wyatt
Fraser	O'Brien	
Fulton, Tenn.	O'Hara, Ill.	

On this rollcall, 355 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. POWELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the considera-

tion of the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13712, with Mr. PRICE in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. POWELL] will be recognized for 2 hours, and the gentleman from Ohio [Mr. AYRES] will be recognized for 2 hours.

The Chair will recognize the gentleman from New York.

(Mr. POWELL asked and was given permission to revise and extend his remarks.)

Mr. POWELL. Mr. Chairman, I yield myself such time as I may desire.

Mr. Chairman, I rise to explain the purpose of H.R. 13712, to amend the Fair Labor Standards Act to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

With this bill, the Committee on Education and Labor once again takes a historic giant step forward in helping to raise the standard of living for more Americans. Not only is coverage extended of the Fair Labor Standards Act to an additional 7.2 million wage earners, but the minimum wage for both presently and newly covered workers is increased.

Five years ago, coverage to new workers was extended for the first time since 1938 by this committee. In its legislative wisdom, the committee has again extended coverage within a comparatively short period to enable more of our increasingly productive labor force to concomitantly share the benefits of an expanding economy.

For the first time in the history of the act, many agricultural workers on larger farms will be covered. In the past, we have neglected and ignored this important segment of the American labor force.

Recognizing that retail and service occupations now engage a majority of the workers in the United States, the exemptions in this area are being substantially reduced and repealed. Many low-wage employees in laundries, restaurants, hotels, hospitals, and other retail and service occupations will receive minimum wage protection for the first time.

During the present period when the economy is making certain adjustments between productivity and the cost of living, I wish to emphasize that H.R. 13712 is moderate legislation, attaining its goal gradually, step by step, over a period of years. In so doing, we deter any possible jolting dislocations in the wage-salary and price structure.

The recommended minimum of \$1.60 will not be reached until 1968 for pres-

ently covered employees, 1971 for newly covered—nonfarm—employees, and beginning at \$1 in 1967 and reaching \$1.30 by 1969 for agricultural employees.

The bill will not extend minimum wage to those industries which pay more than the minimum but to those industries where subminimum wages too frequently prevail. Approximately one-third of the employees among the newly covered presently earn less than today's minimum wage of less than \$2600 a year, and the majority are the only or main wage earners for their families.

These amendments will also aid in erasing the present discriminatory wage patterns. Almost two-thirds of all white workers come within the present coverage provisions, but less than half of all nonwhite workers are covered.

The inadequate provisions of this Act have caused wage discrimination against the children of low-income families. Two-thirds of all men employed in non-supervisory jobs are covered by the Act, but only about half of the women in such jobs.

Over 6 million children are today members of families in which the father or mother is working fulltime but earning a poverty wage. By extending coverage to more than 7 million employees many of these inequities will be eliminated or substantially reduced.

Mr. Chairman, the imperative need for these wage increases and extensions is reflected in our increasing consumer price indexes. The costs of the most essential items, food and services, have risen steadily over the years. Enactment of this bill will enable wage earners to more adequately provide for their families and for themselves. These amendments are an important adjunct to our current war on poverty program to which the original act has been an indispensable forerunner.

I will offer only one amendment which will preserve the hardship review committees with power to prevent the automatic wage increase in Puerto Rico where an adverse effect on the economy can be demonstrated.

A continuing careful assessment of all the economic factors involved impel me to the conclusion that it would be economically unwise as well as potentially detrimental to the industrial growth of Puerto Rico to provide for automatic wage increases and extended coverage without the built-in protective apparatus of the Puerto Rican government's hardship review committees.

In offering this amendment, I wish to emphasize that not a single member of the Puerto Rican government or the Dominant Popular Party has discussed this amendment with me or even influenced this decision.

Rather, I reached this conclusion after instructing my staff to make its own analyses of the islands economics and after discussions with many of my old friends from Puerto Rico such as resident commissioner Dr. Manuel LaFont, Jr., Charles Lafont, Rafael Gonzalez Gomez, and Alfredo Vidal Chacon, the latter a former associate. All of them are Liberal statehooders in the

most dedicated tradition for a better Puerto Rico.

During my congressional service, I have been profoundly concerned with the economic growth and the continuing political integration of Puerto Rico.

In the 5 years of my chairmanship of this committee, Puerto Rico has received, for education and training, Federal funds totalling \$158,597,979. In 1965 alone, 15 Federal departments and agencies made a total contribution of \$274,114,000 to the government of Puerto Rico. Obviously, our Federal Government continues to play a critical role in Puerto Rico's economic, educational and social development.

As Puerto Rico's economy continues its present upward thrust, the need will eventually assert itself to integrate that government's wage structure with that of this country. But to do so at the present time could reinnoculate the island with the twin viruses of increased unemployment and industrial stoppages.

I wish to thank the members of the committee, both majority and minority, for their cooperation and enthusiastic support of this all-important legislation.

Because he was such a wise and constructive force in bringing this present bill to legislative fruition, former Representative James Roosevelt should also be warmly commended here today, even though we no longer have the privilege of his astute statesmanship in this body.

Mr. Chairman, I yield, out of protocol and with the consent of the author of the bill and the chairman of the subcommittee, to our beloved colleague from Puerto Rico, the Resident Commissioner, Mr. POLANCO-ABREU, such time as he may consume.

Mr. POLANCO-ABREU. Mr. Chairman, I thank the distinguished chairman of the Committee on Education and Labor for yielding to me.

The subject before the committee holds great personal significance for me. As a lifetime proponent of higher rewards for the toil of man, my record during 16 years in the House of Representatives of Puerto Rico bears out that to me it would be indefensible to argue that anything but the highest possible wages are the just fruits of the workingman's struggle for himself and his family. I would go farther. I would say that the workingman is entitled to a fair share of his productivity, and I will always fight for this principle.

Moreover, the political party whose standard I follow, from its first day in office, has concerned itself, as a basic premise, with higher wages, and it enacted and approved a minimum wage law as one of its very first accomplishments. This minimum wage law of the Commonwealth is still in effect, and it complements the Federal minimum wage law. Such as, for example, by covering practically every industrial classification—practically every worker in Puerto Rico.

This law is administered in Puerto Rico by a minimum wage board, which is alert to changes in the economic pattern so that workers below the collective bargaining level may continually receive higher wages. This is a matter of public policy in Puerto Rico.

The Federal Fair Labor Standards Act has been implemented in Puerto Rico since 1940 by special industry committees appointed under the law by the U.S. Secretary of Labor and comprised of representatives of labor, management and the public. These industry committees publicly gather evidence and set the highest possible minimums on an industry-by-industry basis, according to the ability of any particular industry to pay without creating substantial unemployment. The avoiding of substantial unemployment through a statutory minimum wage system, is the guidepost of the Fair Labor Standards Act.

There were no percentage increases in minimums imposed by amendments to the Fair Labor Standards Act until 1961, when it was tried for the first time. Recognizing that there were possible dangers in this untried and unproved system, the Congress wisely allowed for appeal in the case of hardship to any particular industry and consequent danger of creating unemployment. Thus, the Congress provided for review committees in Puerto Rico, to which industries which felt that they could not pay the higher automatic minimum wage based on percentages of then current minimums could appeal. It was fortunate that Congress so provided, for many industries did, in fact, appeal and many were given relief.

I am sorry to tell you that, even with this safeguard, Puerto Rico suffered a loss in employment. Under the industry-by-industry system of setting minimum wages by the special industry committees, wages in Puerto Rico have increased at a faster rate than in Continental United States, and they are continuing to do so.

Average hourly earnings in Puerto Rico increased from 1960 to February 1966 by 36 percent, or more than 6 percent per year. Actual hourly earnings were 94 cents in 1960 and \$1.28 in February 1966. The industry committees have made possible Puerto Rico's transformation from a one-crop agricultural economy toward an industrial economy through our Operation Bootstrap. The purpose of Operation Bootstrap is to create jobs through industrialization. The success of the program is shown, for example, in increased employment from 72,000 jobs in 1957 to 112,000 jobs in 1965.

We are proud of our record of creating jobs and boosting wages, and we invite comparisons.

However, without flexibility in the application of the Fair Labor Standards Act in Puerto Rico, this record could not have been achieved, for establishing minimum wages under a flexible system has been based on reality rather than politics. It is based on economics rather than dreams. It is based on hard facts, rather than on wishful thinking. It is a system of proved worth which must be kept if Puerto Rico's development is to continue to create job opportunities and steadily higher living standards for the workingman.

In its present form, H.R. 13712 would change this, and it would threaten the orderly development of Puerto Rico's industrialization program. It would do

this by extending coverage to such fields as agriculture, which in Puerto Rico is still largely underdeveloped and unmechanized. Agriculture in Puerto Rico requires a high percentage of hand labor as compared with the U.S. mainland or Hawaii. The bill would impose arbitrarily, across-the-board percentage increases in hourly earnings of nonagricultural industries without regard to the ability of the industries to pay. It would do all of this and endanger the lot of the workingman and of small industrial firms without providing for any recourse or appeal in the form of review committees, such as was provided by the 1961 act.

The distinguished gentleman from New York, the chairman of the Committee on Education and Labor, is aware of this fault in the proposed legislation. He has announced his intention to offer an amendment to delete these threatened dangers from H.R. 13712 by eliminating for Puerto Rico extended coverage, and automatic across-the-board increases. This would mean that the industry committees, which have functioned so successfully in the island, will continue their work of upping wages as rapidly as possible, according to the development of the industries affected. And our agricultural community will be free to continue to provide a high rate of employment. I welcome the distinguished gentleman from New York's decision. It shows his desire to be fair and helpful. I know I speak for the people of Puerto Rico in this instance when I extend to him both personal and public thanks.

I give my total support to the amendment of the gentleman from New York, and I urge all of my colleagues to do likewise—to do this for Puerto Rico. I can tell you that if this amendment is adopted, it will prove a landmark in the industrial and economic development of Puerto Rico.

I am sure many of you may have wondered why there should be a different application to Puerto Rico of our statutory minimum wage system, and although the problem is both intricate and puzzlingly complex, let me try to throw one little ray of light on it.

Although the Puerto Rican economy is completely meshed with the U.S. economy, its intrinsic are vastly different. On the one hand, the United States, the most highly industrialized nation in all the world, has a relatively small population per square mile able to enjoy the tremendous resources of this great land. Puerto Rico, on the other hand, is at the extreme other end of the spectrum. Probably, there is no place in the world where the pressure of population against resources is so adverse. The economic intrinsic of Puerto Rico are so different from those of the United States as to be almost unfathomable.

If you could imagine that virtually the entire population of the world moved overnight to within the borders of continental United States—some 3 billion Chinese, Indians, Latin Americans, Africans, and Europeans—all the people of all the continents and all the islands—the United States would then have the same approximate population density as Puerto Rico.

Now, begin to subtract, one by one, virtually all of the U.S. natural resources. Take away all the coal mines; all the oil wells; all of the natural gas deposits, and 95 percent of the hydro-electric energy. Then eliminate the iron ore, the copper, and the other industrial raw materials. Then take away most of the capital and the bulk of technical skills; and for good measure remove all the fertile land, except a narrow rim along the east and west coasts. Thus, Mr. Chairman, you would have writ large the economic intrinsics of Puerto Rico.

Though this may sound incredible, I can only assure you that it is, nonetheless, unexaggeratedly true, and I can also assure you that if the United States were in such a position, its economic theories and practices, including that of setting statutory minimum wages, would be different from what is possible in a country so happily endowed by a bountiful nature.

Mr. Chairman, our colleagues here have a greater stake in the Puerto Rican provisions of H.R. 13712 than they may realize. More than 150,000 jobs in the congressional districts spread across the land are engaged in supplying the rapidly growing Puerto Rican market which is buying more than \$1.2 billion worth of products yearly from the U.S. mainland. This is greater than the combined purchases of 17 European nations, more than the purchases of all 55 nations of the African continent, or bigger than the purchases of all 7 east coast countries of South America—including Brazil and Argentina—plus all 8 Caribbean countries combined.

Mr. Chairman, our colleagues from New York probably know that 16,000 persons are employed producing \$141 million worth of goods annually, for sale to Puerto Rico; in Pennsylvania, it is 9,600 jobs producing \$81 million in goods for Puerto Rican sales; 6,400 persons are at work in New Jersey producing for the Puerto Rican market; 6,700 persons in Connecticut; 5,100 in Massachusetts, and so it goes, across the Nation.

These figures, I think, show that Puerto Rico's political and economic relations with the United States form a highway over which benefits flow in both directions. Within this pattern and with perseverance, imagination and industry at home, Puerto Rico has accomplished both a political and industrial transformation without riots, disorder, or a single gunshot.

The accomplishments are so magnificent, so outstanding, and form such a miracle of progress within such a short time, that the attention of the world has lately been focused on our little island in the Caribbean. Thousands come each year from other lands—political leaders, industrialists, scholars—to observe what we have done and how we have accomplished this miracle that is the Commonwealth of Puerto Rico.

In the world of trouble and turmoil, the little jewel that is Puerto Rico has sparkled throughout the globe, to the great credit of the United States. Thus, the image of the United States in its role of world leader has been enhanced and enriched.

But I can tell you that the people of the world could not understand the United States arbitrarily imposing its will on Puerto Rico to determine the salaries that will be paid there without consideration of consequences to either the people or its industries on which they must depend. This, I am afraid, could be interpreted as a move to restore universally hated "colonialism"—although you know, and I know, that this is not intended. Particularly in Latin America might such a view prevail, and our Communist enemies would make the most of it.

Mr. Chairman, this is why the amendment of the gentleman from New York should be adopted by an overwhelming vote. The automatic and mechanical escalations of statutory minimums in Puerto Rico should be deleted in their entirety. Furthermore, a broader criteria than "substantial reduction of employment" and "competition" should be incorporated into the Fair Labor Standards Act—criteria which would be consistent with actual approaches to the wage problem in the United States. Wage policy, perforce, needs to consider not only how curtailment of employment may be avoided, but also how adequate expansion of employment and reduction of unemployment may be achieved—in brief, how optimum economic growth may be encouraged, stimulated, and maintained.

The new coverage proposed by H.R. 13712 should exempt Puerto Rican industries. This action would be in recognition of the vigorous implementation by the community of its own minimum wage laws and acknowledgment of the fact that, as a matter of practical availability, the wage review forum under the Minimum Wage Act of Puerto Rico is more adequate for equitable resolution of minimum wage controversies in these industries which often are without financial resources, representational skills, fluency in English, and knowledge of administrative proceedings to represent their interests satisfactorily in Federal quasi-judicial forums.

Mr. Chairman, during the months since June 1965, I have been trying to communicate with each and every one of my colleagues. Particularly during the past fortnight, I have devoted all of my time to explaining the significance of the minimum wage bill to the Puerto Rican economy. I know that this bill is only one of hundreds in the Congress, and that its application to Puerto Rico may be viewed here as a minor, even a routine, matter. In Puerto Rico it is different. Developments on the minimum wage bill are daily in the headlines, in the columns, and in the editorials. People are anxiously awaiting the results of this debate and the final vote.

My responsibility will end when I finish this statement, for here I have a voice, but no vote. Your responsibility will go beyond the debate, because you do have the right to vote. More than ever, the right to vote is the ability to create or destroy. During my time in office here, a little more than a year, I have become confident that there is a genuine "good will" amongst my col-

leagues for the Commonwealth of Puerto Rico and its people. The destiny of our economy is in your hands. The effects of what you do here will be felt in our living rooms and our kitchens.

As always, and in the sense of the legislation before us, the misunderstanding of one, will be the responsibility of all who follow him. We will have to abide by the decision reached here today. In a simple, free, and forthright way, I have persisted in my efforts that Congress may not commit an error, nor an injustice by the provisions of this bill.

I have been working on this for a long time, and all along the road there were obstacles and discouragement, but I think I have seen the direction of the pendulum changing, as I knew it must. And I think we will prevail through the adoption of the amendment which will be offered by the gentleman from New York. For, like you, Mr. Chairman, and like all of our colleagues, we Puerto Ricans will never stop fighting for social justice, human dignity, and equality of human beings.

The shaping of the Puerto Rican destiny is mainly in the hands of the Puerto Rican people. Still, within the framework of the republican system and our democratic ideals, your hand, your voice, and your vote today, will determine largely the destiny of Puerto Rico in the months, and even in the years ahead.

Gracias—Thanks.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. AYRES].

Mr. POWELL. Mr. Chairman, will my good colleague [Mr. AYRES], permit me to yield time to another Member on this side.

Mr. AYRES. Mr. Chairman, if my chairman wants to yield now to the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. DENT] so that we can hear his words, I would be glad for him to do so.

Mr. POWELL. I think the gentleman from Pennsylvania has such great words of wisdom which I am sure will be of great interest to our colleagues.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. POWELL].

Mr. POWELL. Mr. Chairman, in my 22 years in the Congress I have never seen any Member of this body work as hard on a single piece of legislation as has our distinguished friend from Pennsylvania, the chairman of the subcommittee on labor. I would like, therefore, thanks to the cooperation of my beloved friend, Mr. AYRES, of Ohio, to yield to him now as the chairman and author of the bill, such time as he may desire.

The CHAIRMAN. The gentleman from Pennsylvania—[Mr. DENT] is recognized.

(Mr. DENT asked and was given permission to revise and extend his remarks.)

Mr. DENT. Mr. Chairman and Members of the Congress, this is and should be and can be an historical day. There have been many sunrises and many sunsets since the Congress of the United States took cognizance of the fact that in the midst of plenty there was poverty,

and when the peoples of this Nation found themselves in a position where with all of their ingenuity and all of their knowledge and skills, they were indeed down in the deep depths of a depression that defied solution.

In the year 1938, and I am happy to say that in this Congress today, there are Members who served in that Congress, the Congress recognized the needs of the moment and brought forth for the first time in our history a minimum wage and a maximum hours law.

The philosophy behind the passage of that bill was that by putting more money into the hands of the workers, it would create a greater demand for goods; and a greater demand for goods would create a greater production; and a greater production would create a greater number of jobs.

Today while holding to that philosophy and admitting that these reasons are still important, we have to add a new reason—and a reason even more compelling than the reasons behind the creation of this legislation in the first instance—we are today concerned with a new power in this legislation—earning power—yes—buying power—yes. But even more important—living power.

When a nation has between 3½ percent and 4½ percent of its working people unemployed—when a nation has to confess to the world that 40 percent of its people live under a standard of living below the minimum standards that we feel Americans ought to live under—then we are indeed concerned with this new reason for this legislation—the living power of our working people. Somewhere between that 3½ percent and the 4½ percent there must be a great number of workers who are working, and yet not earning sufficiently for them to live within the so-called poverty lines of living.

At the beginning of this session I formally assumed the chairmanship of the General Subcommittee on Labor. I succeeded a great American and a respected Member of this body. In fact, it was under his father's leadership that the first minimum wage bill was passed. I feel very honored that I am having a small part in this attempt today to have Congress pass this latest version of that bill. I succeeded a former Member and close friend, James Roosevelt. My first responsibility was the minimum wage bill, a bill authored by our former colleague.

That legislation, H.R. 10518, was reported by the Committee on Education and Labor on August 25, 1965. No action was taken on it through the conclusion of the last session and, I might say, there was no action taken because I felt—and I went to the Speaker and cleared the situation with him—that inasmuch as I now had the responsibility, I owed it to my colleagues to review with them the provisions of that particular bill before we came to the floor, and particularly with Mr. ADAM CLAYTON POWELL, the chairman of the full committee. With his permission and cooperation we were able to set the bill aside so we could do a little bit more on the legislation.

Mr. ALBERT. Mr. Chairman, will the gentleman yield to me at that point?

Mr. DENT. I yield to the gentleman from Oklahoma, our distinguished leader.

Mr. ALBERT. Mr. Chairman, I wish to commend the gentleman on the amount of effort and skill he has put into this legislation. To my personal knowledge he has listened to every complaint. He has given consideration to every suggestion. He has met with every group, so far as I have been able to find out, that had or expressed any interest in this legislation. The gentleman has been a real servant of the House and of the country in bringing this matter in its present form to the floor in the manner in which he has done so today.

Mr. DENT. I thank the gentleman.

In January, then, I began discussions with virtually every person or group of persons interested in this legislation. Out of these discussions and our subcommittee deliberations came H.R. 13712, the bill before us today. I must say that I have had the utmost consideration and cooperation from the members of my committee on both sides of the aisle. I want to pay particular attention to the work put into this legislation by my cosponsor, the ranking member of the committee, the gentleman from California [Mr. BELL]. While we did not see eye to eye on all phases of this legislation, let me say to you that in the career of legislative activity that I have enjoyed for over 34 years, I have found that when a bill pleases most people and does not displease all the people, it has character and demands attention.

This bill does not please all of industry. This bill does not please all of labor. This bill does not please all of the Members of Congress. By that standard it is good legislation, because it pleases some of the most important people in the world—those affected by the bill.

Mr. Chairman, this bill amends one of the Nation's basic laws, the Fair Labor Standards Act. As I said, the first act was passed in 1938, almost 30 years ago. It was made applicable to all employees. However, they have to be engaged in commerce, and the commerce test was such that it excluded from its coverage the great majority of American workers.

The original act provided that the statutory minimum wage, set at 25 cents, would be raised to 30 cents an hour beginning October 24, 1939, and by stages it was to reach the magnificent sum of 40 cents an hour.

One of the problems we ran into in discussing the extension of this act was that in its early concept, because of the nature of conditions under which the legislation had to be passed, it was oriented to the highest paid workers in the country. So, by being oriented to the highest paid workers in the country, we found ourselves in the next 23 years of activities under this legislation having a door closed to those who needed it most, those who are employed in the lowest paid industries.

By slow and painful stages, we have been able gradually to increase the coverage of the act. If we accept the bill, and follow the subcommittee today, we

will have legislation which will extend the coverage to 7.24 million new workers in this great country of ours.

All of us must admit that when we set, by congressional action, a standard of earnings under an antipoverty bill at \$1.50 an hour, it is not fair—nor is it tenable—to say to a worker employed, who does not claim the poverty base, that he must work for less than \$1 an hour.

We are providing for those newly covered at \$1 an hour, and moving up in easy stages, strictly within the confines and concepts of the President's economic guidelines, in 15-cent stages up to the year 1971. We believe we are bringing under the umbrella and giving dignity to approximately 7 million more workers in the United States.

One of the greatest benefits of this legislation, aside from increased payments in the lower brackets, is the fact that we are recognizing something that no one wants to talk about. It is without doubt a fact in this Nation that some jobs and some earning opportunities are considered to be beneath the dignity of certain citizens of this great Nation.

As adverse imports tend to cut down the number of productive jobs in America, we find ourselves in a position of having a lessened number of job opportunities for high school graduates, who have had the opportunity of entering into the highly paid, dignified, and covered jobs in production industry.

It has long been a concept of the boy or girl seeking a job that to have to work in a laundry was a demeaning position to be put in. To have to go out and work as a hired hand on a farm was not equal to their education or training or social standing. If the boy or girl had to work in the processes of canning and some of the other agriculturally allied jobs, or if they had to work in restaurants as waiters and waitresses, they considered it beneath the station in life that they hoped to attain.

We believe that by adding these workers to this minimum wage bill we are giving dignity to an area of employment that is increasingly becoming that area of employment where the American worker must seek employment.

When I was a very, very young man, the ratio between service workers and production workers was one service worker to every 97 percent of a worker in industry—almost 1 for 1.

Today, because of the great wage increases in the production industries, many of the ordinary citizens have been put in a class of employing services never before dreamed of.

Now, for every production worker in the United States, there are 3¾ service workers.

So it is true, as we move into the field of automation, with all the computers which are now taking jobs not alone from production industries but also in the classified service industries, we must make room in those particular industries which render personal services to the citizens who are employed in other industries.

If we do not dignify these jobs with a reasonable approach to earnings which

at least meet that level we decided to be the poverty level, how can we expect American youth to go out to seek these jobs, when they can earn just as much by staying at home, idle, earning a poverty wage under the poverty program or taking outright relief?

This legislation will aid the greater number of the citizens of this great Nation, because as we elevate the lower paid workers we will move them out of the poverty stage. We will create the buying power which was under the original concept of the act. We will create greater productivity and greater public demand by doing so. As we do this, we will reduce the cost of our Government, the cost of those who have to rely on unemployment compensation, on direct relief, and in the worst analysis on the charity of a poverty payment which is not dignified nor even wanted by those who have to take it.

I believe the time has come when we must face reality. This Nation of ours cannot dodge the responsibility of creating within it a single class of citizens when it comes to providing for earning a livelihood for the family.

Oh, I know that there will be great tears which will fall forth today and tomorrow, by those who will say we are going to destroy the farmworker. Who in our midst would want to do one single thing which would in any way injure the person who tills the soil and brings forth the fruits of the harvest for the American people to live upon? None of us has that in mind.

We are really trying to do something which has to be done. We have to dignify farm labor when that labor is under a corporate type of employment.

If the Members will read the report—and I hope to be able to clarify it—they will find we are to cover under this legislation 1.6 percent of the more than 2½ million farms, yet we will cover 39 percent of all the workers. We will cover them in such a way that unless a corporate farm entity is paying absolute starvation wages this will not be a burden which cannot be borne.

This will do something else. It will retard that great gap which has been moving onward in respect to the small family farms, resulting from the squeeze by the corporate farms, which are eliminating the great blessing we had in this country, which made it what it is today—the family farmer upon thousands and thousands of farms in this country, who provides not only for the markets of the world but definitely for the tables of the neighborhood.

If we extinguish all of that type of farm in this country the increase in the cost of living will be so great that many Members will wonder where they were in their day as Members of Congress, that they did not even foresee such a day.

Believe me when I say that the family farm will benefit if this legislation is passed as we have it before the committee today.

I am not one who says that everything we have done is beyond any kind of criticism. We expect criticism. But we do not want a kind of blind criticism that

comes forth with a compromise and then, after the compromise is accepted, a position of not voting for the bill anyway.

I believe that compromise is a two-way street. I believe that when a person comes to a Member of Congress and lays before that Member of Congress a valid argument against some position which is being taken in a piece of legislation, if that Member of Congress is convinced it is true and accepts the amendment, that same person should not take the floor and belabor the sponsor or the person who is responsible for the legislation. A man who does so is a man who does not act in good faith.

One is sometimes inclined, and I hope I am not, because I am a very reasonable person, but I am inclined, when that type of person offers amendments, to be a little suspicious of what he offers. I will say in all honesty to all of you that I will be suspicious of some of the amendments. I hope you join me in my suspicions, because I believe in dealing with men and with Members of this Congress as I would have them deal with me.

We have problems in this legislation. We cannot iron them all out, because I want to tell you a little secret. I believe if I were to accept the amendments to the amendments to the amendments to the amendments that were made, I would not be allowed to have the number 13712. There are some people who definitely do not like a "2" at the end of a number. I found that out. So believe me when I tell you that restaurant workers are not unhappy with this legislation. The restaurant owners are not unhappy with this legislation. Believe me when I tell you that the laundry workers are not unhappy with this legislation. Also believe me when I tell you that the laundry owners are not unhappy with this legislation. I can say this to you in all honesty, because at least 35 percent of the people in my district are farmers. I can say to you honestly, without fear of contradiction, that the farmers of the United States are not unhappy with this legislation. They know their responsibility to the economy and accept their responsibility. However, there are those amongst us who would be Pied Pipers without a following and who come to you and tell you that the farmers are depressed and are worried and are going to be driven from their farms. Show me the farmer personally who has told you that and, if I cannot convince him he is wrong, I will personally submit the amendment to take agriculture out from under this bill. I know that farmers are reasonable persons and I know the kind of selfish people some of us would have us believe they are. I know my farmers. I go to them and I talk to them.

I talk to the little pants presser who was talked about awhile ago on the floor. I heard one Member pleading for the poor little pants presser in the community who will be driven out of business. Let me tell you the very, very first principle in business, in a free enterprise economy. When a restaurant group came to me and said if we put this bill in, they would be driven out of business, I said to them, "Gentlemen, res-

taurants are not open to pay wages, high or low. They are open to serve customers. If your restaurant workers worked for nothing and you did not have any customers, you would still close down. If you have to pay your restaurant worker a decent wage and customers come in, you will stay in business. That is true whether you make bicycles, automobiles, serve doughnuts, or wash clothes." It is true American business is based on commerce and the transaction of business, not on the wages paid except when those wages become deliberately noncompetitive within the industry or the business you operate in. If all of the laundry people are paying the same minimum wage, there will be no difficulties for any of them. If all of the restaurant people are paying the same basic wage, there will be no difficulties for any of them. That has been proven historically. From 1938 on through the intervening years until this date we have heard the passage of this minimum wage bill or this increase in wages was going to drive everybody out of business in a given area.

Mr. Chairman, there are more corporate entities today than ever before in the history of the United States and more per capita income than ever before in the history of the United States.

Mr. Chairman, there have been more bankruptcies in years in between the increased minimum age than there ever has been in the year that the minimum wage went into effect. These are basic, simple truths and do not cry crocodile tears to save a soul that needs no saving. When you do, you had better stop and wipe your eyes and save your tears for your own soul, because that is the soul that will need saving.

Mr. Chairman, it is my humble opinion that if this legislation passes as we have presented it to you, with some clarifying amendments, that we were convinced as the legislation was drawn were needed—we have not closed our ears to suggestions that were based upon an honest approach to the legislation—we will have presented on the floor some amendments that we are convinced will not injure the workers and will take away some of the bad features for the employer.

Mr. Chairman, as I said to you before, and in closing, let me say to you in all seriousness and earnestness at my command, there is not one line of this bill written to hurt anyone.

There is not one line of this bill written in a spiteful or a vengeful manner.

There is not one line of this bill written to strike at any particular district of the Nation. It is not aimed at the South, it is not aimed at the North, it is not aimed at the East, and it is not aimed at the West. It is aimed at every segment within the confines of this Nation.

Mr. Chairman, we must understand all of these features, that we have a responsibility to the rest of our neighbors and to that 40 percent of the greater American population who have been forgotten, as it were, by the lack of interest on the part of the Congress condemned to a life on a minimum wage at a lesser rate than is prescribed in the bill.

Mr. Chairman, how could any members of the Committee honestly stand up and say that we cannot live under a minimum wage, even when it has been \$1.25? Even then it would still only be \$2,500 at the end of 12 months, if they work 250 days a year, the normal work year in the United States? How can we honestly say that and turn right around and say to that individual, "If you do not take a job at \$1.25 an hour, you can go on relief and get \$2.10 an hour?"

Mr. Chairman, why can we not recognize the inconsistency of our approach, the inconsistency of an approach that will pass \$1.750 billion for poverty and refuse a piece of legislation that does not add \$600 million to the total payroll of the United States? Where is the backbone that we are supposed to have? Tonight, when you go home look in your mirror and before you come back you will recognize yourself as a man who stood on the platform and said to your people, "I will go to Congress and I will do those things that will do the greatest good for the greatest number of Americans."

Mr. Chairman, that is all I ask you to do.

Mr. WAGGONER. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Louisiana.

Mr. WAGGONER. Mr. Chairman, I have made no final decision about this particular legislation because its final form is yet to be determined, but I believe it needs to be said here and now that the gentleman in the well, the gentleman from Pennsylvania [Mr. DENT] is deserving of the honest and genuine appreciation of this entire Congress for having made the sincere effort which he has made to bring to this Congress a measure which the gentleman believes will be eminently fair to every Member of this Congress and in turn their constituents. Admittedly it is controversial and has its strengths and weaknesses but how could it be otherwise?

Mr. Chairman, I would concur wholeheartedly with the statement that the chairman of the full committee, the gentleman from New York, made before the gentleman from Pennsylvania went to the well, when he said he had never seen a member of a committee in this Congress work harder to bring a piece of legislation to the floor than has the gentleman from Pennsylvania [Mr. DENT]. He knows this bill in great detail. No one in this House knows it as well.

Mr. Chairman, the gentleman from Pennsylvania has had an open mind and a closed mouth and has listened attentively to the complaints and the ideas of everyone who wanted to discuss any area of this legislation. He has made change after change and compromise after compromise in an effort to report an acceptable bill and it is primarily because of JOHN DENT that this bill has been improved so much over the Roosevelt bill.

Mr. Chairman, I believe sincerely that the gentleman from Pennsylvania has brought to the floor of the House what he believes to be an eminently fair piece of legislation. He is a fairminded man. Regardless of what the final decision of any individual might be, the gentleman

from Pennsylvania has done a good job in bringing this legislation to the floor and is deserving of the credit due him. I pay tribute to him.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to my colleague.

Mr. PERKINS. Mr. Chairman, I have been a member of the Committee on Education and Labor since the 81st Congress. During the first session of the 81st Congress, we raised the minimum wage from 40 cents to 75 cents an hour and thereafter raised it twice in this 17-year span up to its present level.

In all my experience on the Committee on Education and Labor, and in observing minimum wage and maximum hour legislation coming before the Congress during several terms of the Congress, I have never known a member of the Committee on Education and Labor who has given greater attention and more consideration to legislation in this important area of our committee work than my distinguished colleague from Pennsylvania JOHN DENT.

He has patiently and painstakingly listened to suggestions offered by the various Members of the Congress as well as the suggestions offered by people throughout the United States. We may not agree with every provision in this bill, but I dare say there is not a Member in this Chamber who has exercised greater skill in attempting to reconcile many of the varying viewpoints as to the proper steps to take than the gentleman from Pennsylvania. His efforts have brought before the Congress the best possible bill, under the circumstances on a controversial subject. JOHN DENT is to be congratulated.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman.

Mr. GROSS. It will not make very much difference how high the minimum wage is raised for it will not shut off the imports of goods produced by cheap foreign labor—goods and products that are flooding this country coming from foreign countries where they have no minimum wage laws and where the wages paid are far below the present minimum in this country. It will not make very much difference how high you raise the minimum wage—you are not going to restore those jobs that are lost by our people in this country because of the importation of such goods and products from other countries. The gentleman will agree with that; will he not?

Mr. DENT. Yes, I do agree with that. However, I want to say to you also that this legislation has in it the right of appeal by any aggrieved person or representative of that person—corporate or individual—to the Secretary of Labor where in any instance they feel that the application of the minimum wage makes them noncompetitive with foreign imports.

As you well know, and this is probably one of the few things that you and I stand side by side on—but I do not believe you can survive in a nation of high economy in open competition with nations of low economy. But that does not

stop us from recognizing the serious need here.

Every time we raise the cost of Government and the cost of living—and every time we meet the necessary demands of the people for the services from their Government, we make it imperative that all the people earn enough to meet those costs that we have put upon them.

The original act provided that the statutory minimum wage would be raised to 30 cents an hour beginning October 24, 1939. A procedure was established for raising the minimum wage by stages to a level of 40 cents an hour, industry by industry, as rapidly as possible; but, in any case, 40 cents an hour was to become the national minimum wage within 7 years after the effective date of the act, that is, by October 24, 1945.

During the interval, intermediate minimum wages were applied to different industries on recommendation of industry committees. The last order of the Wage and Hour Administrator raising the minimum wage to 40 cents an hour was issued in July 1944, 1 year before the date set by the act for the 40-cent-an-hour minimum wage rate to become applicable.

The act also established an overtime rate—not less than 1½ times the employee's regular hourly rate—which was to be paid employees for employment in excess of certain maximum hours in a workweek. Thus, during the first year of the act, that is, from October 24, 1938, to October 23, 1939, a maximum hours standard of 44 hours a week was applied to covered employees; during the second year, 42 hours became the standard; and after 2 years, the standard was reduced to 40 hours a week. The time-and-one-half penalty overtime rate has never been altered, although amendments were passed in subsequent years increasing the statutory minimum wage and extending coverage to unprotected workers.

Amendments were approved in 1949, 1955, and 1961, and the minimum wage is now \$1.25 an hour. At the present time, half of the Nation's wage and salary workers are outside the coverage of the act. The law presently covers only 29.6 million of the 60 million wage and salary workers in the United States. A large number of these 60 million are beyond the scope of the act's practical, possible, or needed coverage. But of the 47 million workers in private industry who might be brought within the coverage of the wage and hour guarantees, 17½ million are not in fact covered.

Mr. Chairman, this bill seeks to implement the policy of the Fair Labor Standards Act by, first, extending the benefits and protection of the act to an estimated 7,243,000 workers engaged in commerce or in the production of goods for commerce, or employed in enterprises engaged in commerce or in the production of goods for commerce, and, second, providing an increase in the minimum wage.

The bill provides that the minimum wage for those employees presently covered by the act will be \$1.40 an hour beginning February 1, 1967, and \$1.60 an

hour beginning February 1, 1968. The proposed minimum wage for newly covered workers—other than those employed in agriculture—will be \$1 an hour beginning February 1, 1967; \$1.15 an hour beginning February 1, 1968; \$1.30 an hour beginning February 1, 1969; \$1.45 an hour beginning February 1, 1970; and \$1.60 an hour beginning February 1, 1971. For newly covered agricultural workers the bill provides a minimum wage that will be \$1 an hour beginning February 1, 1967; \$1.15 an hour beginning February 1, 1968; and \$1.30 an hour beginning February 1, 1969. Thus, the proposed new wage floors will be reached gradually within 2 years from now for those presently covered by the act and for certain Federal employees and Federal service contract employees; 5 years for those, other than agricultural workers, who will be newly covered by the act; and 3 years for newly covered agricultural workers.

The wage increases provided by the bill were geared to considerations of correcting and as rapidly as practicable eliminating labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers without substantially curtailing employment or earning power. It is firmly believed that those gradual increases, approximately equivalent to productivity increases in recent years, can be absorbed by the national economy as easily as all previous increases in the minimum wage.

Opponents of this bill are quick to state that the increases in the minimum wage violate the President's wage-price guidelines. They also raise the specter of inflation, and a wage-price spiral which is supposed to result due to a higher minimum wage.

With regard to the first point, let me state that I hardly think the President meant his wage-price guidelines to apply to workers earning a wage below that level considered as the "poverty level of income." In any event, however, the fact of the matter is that the wage increases fall well within these guidelines. For example, in the case of the 29.6 million workers presently covered by the act, the minimum wage would increase from \$1.25 an hour to \$1.40 an hour and ultimately to \$1.60 an hour. Some 12 percent of these employees presently earn less than \$1.40 an hour, and some 18 percent earn less than \$1.60 an hour. Since the annual wage bill for all of the presently covered workers is approximately \$145 billion, and the estimated annual wage bill increase because of raising the minimum wage averages \$979 million per year for the next 2 years, the percentage increase in the wage bill is 0.68 per year over the next 2 years. This is the amount opponents of this legislation object to; this is the amount which allegedly violates the President's wage-price guidelines. I daresay that when the arguments of the opposition became that unfounded, we must have a good bill.

As I mentioned earlier, they also raise the fear of this bill producing a serious inflationary effect on our economy. This

argument has been used and abused since 1938, when the original act was passed.

Suffice it to say that there is not one shred of evidence indicating that this act, or any amendments thereto, has adversely affected the economy in any way. I say this with vehemence because I am tired of hearing such hollow cries of anguish.

As recently as 1961, these old familiar refrains were heard in the halls of Congress. In concluding remarks in the report to the 89th Congress—January 1966—by the Secretary of Labor regarding the Fair Labor Standards Act, the Secretary made the following comment which is relevant to this discussion:

The required conclusion from . . . studies and analyses is that the 1961 amendments to the Fair Labor Standards Act have not resulted in any identifiable retarding of economic expansion, decrease in employment, contribution to inflation, or diminution of profits.

Mr. Chairman, we are talking about poverty wages here today. We are not setting wages, and I find it somewhat tragic that any worker should be affected by this bill, for no breadwinner should be paid a wage which forces him to support his family on the yearly sum of \$2,500. This is what \$1.25 an hour amounts to. Even at \$1.60 an hour, which represents the ultimate increase in the minimum wage under this bill, that worker will only earn \$3,200 a year. I wonder how many of us can stand up and sincerely object to a workman earning, and supporting his family, on the grand annual sum of \$3,200. Frankly not even farm workers live on less when you consider the fringe benefits and services.

Mr. Chairman, there could be no better time than the present period of unprecedented business prosperity to broaden the base of the act and to increase the minimum wage to a level which will provide a living wage. This is an essential effort in our war on poverty. Our concern cannot focus solely upon the unemployed when the working poor live in poverty too. Many families living in poverty today do not need the services of welfare workers, nor public assistance, nor charity. What they need is a living, decent wage for the family breadwinner. One of the reasons that they are denied this minimum standard of protection is that they are employed in industries excluded from the coverage of the act. The act was a major, almost revolutionary, social achievement in 1938. Its announced objective was to eliminate substandard labor conditions as rapidly as possible. The original pace will be restored by these amendments.

Mr. Chairman, I will not present a concise description of the bill's provisions. As Members know, several areas are covered by this bill that have not been previously covered. Perhaps this is a more important aspect of the legislation than raising the minimum wage. It is significant to note, in this respect, that some 728,000 nonagricultural employees brought under the act's coverage by this bill presently earn less than \$1 an hour. It is even more significant that of the 485,000 farmworkers to be covered,

some 213,000—44 percent—presently earn less than \$1 an hour. This is an even more tragic reality than those presently covered who earn the bare minimum.

I shall now explain the provisions of bill in detail. Some of my discussions will relate to matters which have been raised since the printing of the committee report.

TITLE I—DEFINITIONS

Section 101. Tips: Special provisions are made for employees who receive tips. The definition of "wage" is amended in section 101 of the bill so that the wage paid by the employer to a tipped employee will be deemed to be increased—on account of tips—by an amount determined by the employer, but such amount shall not exceed 35 percent of the applicable minimum wage rate during the first 2 years from the effective date of the Fair Labor Standards Amendments of 1966, 40 percent during the third and fourth years, and 45 percent thereafter.

A "tipped employee" is defined in the bill as any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips. This is analogous to the reporting requirements for a tipped employee under the provisions of the Social Security Amendments of 1965.

It should also be noted here that at present "wages" include the fair value of board, lodging, and other facilities customarily provided by the employer to his employees.

These provisions resolve the question of whether certain income of an employee from a source other than his employer, but earned while in the employment of such employer should be considered wages paid by the employer. This proposal reflects the result of considerable deliberation on the basic issue of tips, as wages, as well as the difficult problem of how best to calculate the amount of tips. It further reflects the equitable result of discussions with representatives of the industry, both labor and management.

The practical application of the provisions may be seen by example. For instance, assuming the applicable minimum hourly wage is \$1, the maximum tip allowance is 35 percent of that amount, or \$0.35 per hour. The employer is required to pay the employee a minimum hourly wage of \$0.65, assuming the employee comes under the definition of "tipped employee," and further assuming that he received \$0.35 or more an hour in tips. The 35 percent credit also applies to the minimum hourly wage of \$1.15. When such wage is \$1.30 or \$1.45 an hour, the applicable tip allowance is 40 percent of the respective amounts. When the wage is \$1.60 an hour, the maximum allowance is 45 percent. This means that a maximum of 45 percent of the \$1.60 hourly minimum, \$0.72 per hour, may be so credited against the employee's wage. The employer then, must pay the balance of the applicable minimum rate—in this case, \$0.88 an hour. All this presumes, however, that the employee is receiving at least the maximum tip credit in actual tips.

If the employee is receiving less than the amount credited, the employer is required to pay the balance so that the employee receives at least the minimum wage with the defined combination of wages and tips.

The bill's tip provisions provide enough flexibility to account for a practice as inconsistent as tipping. To further assure fairness, the bill directs a procedure whereby an employee—either himself or acting through his representative—who shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount credited against his wage by the employer, shall be deemed to have his wages increased by the actual amount of tips.

Section 102. Definition of enterprise: Before the 1961 amendments to the act, coverage was limited to individual employees who were themselves engaged in commerce or in the production of goods for commerce. The 1961 amendments expanded coverage by adding protection for those employed in an "enterprise engaged in commerce or in the production of goods for commerce." The "enterprise" coverage, however, was subject to an annual sales test of \$1 million. Separate dollar tests for the construction industry—\$350,000—and gasoline service establishments—\$250,000—were provided.

Section 102 of the bill would reduce the million-dollar test to \$500,000 for 2 years, and then to \$250,000 in 1969. There would be no dollar tests for enterprises engaged in: First, laundering, cleaning, or repairing clothing or fabrics; second, construction; or, third, the operation of hospitals and related institutions and institutions of higher education.

"Mon and Pop" stores—those establishments in which the only regular employees are the immediate family of the owner—continue to be excluded, and their sales are not to be used in determining the annual gross sales of any "enterprise."

Section 103. Agricultural employees: Excludes from the definition of employee, for the purpose of computing "man-days" of agricultural labor, "the parent, spouse, child, or other member of the agricultural employer's immediate family," and "any individual who is employed by an employer engaged in agriculture if such individual is employed as a hand harvest laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment, commutes daily from his permanent residence to the farm on which he is so employed, and has been employed in agriculture less than 13 weeks during the preceding calendar year." Defines "man-day" to mean any day during which an employee performs agricultural labor for the employer.

TITLE II—REVISION OF EXEMPTIONS

Section 201. Hotel, restaurant, and recreational establishments; hospitals and related institutions: The bill repeals the minimum wage and overtime exemption now provided in section 13(a)(2)(ii) and (iii) for hotels, motels, restau-

rants, and hospitals and related institutions, but restores the overtime exemption for hotels, motels, and restaurants in a new section 13(b)(8).

The minimum wage and overtime exemption in section 13(a)(2)(ii) for seasonal amusement and recreational establishments would be limited to establishments which do not operate for more than 7 months annually, or which have average receipts for any 6 months of the year which do not exceed one-third of their average receipts for the remaining 6 months of the year.

Employees of small retail or service establishments, except laundry and cleaning service employees and employees of hospitals and certain institutions and schools, which have annual dollar volumes of sales which are less than \$250,000 and which do more than 50 percent of their business within the State in which they are located, are exempted from the minimum wage and overtime provisions of the act. This establishment exemption applies to restaurants, retail food service establishments, hotels, motels, amusement or recreational establishments, and other retail or service establishments as defined in the act.

Section 202. Laundry and drycleaning establishments: This section repeals the minimum wage and overtime exemption applicable to employees in laundry and drycleaning establishments. Thus, this amendment and the amendments providing a new definition of a section 3(s) enterprise and a revision of the retail or service establishment exemption provide for complete minimum wage and overtime protection for employees of such establishments.

Section 203. Agricultural employees: Presently, no agricultural employees are covered by the minimum wage or overtime provisions of the act. The amendments made in this bill provide a minimum wage for certain agricultural employees but maintain the exemption from overtime provisions of the act.

The following exemptions contained in section 13(a) relating to agricultural employees are repealed and placed in section 13(b) as exemptions from the overtime provisions of the act:

First. Employees employed in agriculture and in the operation of certain irrigation facilities—old section 13(a)(6) and new section 13(b)(12).

Second. Agricultural employees employed in livestock auctions—old section 13(a)(16) and new section 13(b)(13).

To determine the agricultural employees to whom the minimum wage will apply, the new exemption from minimum wage coverage established in a new section 13(a)(6) for agricultural employees must be examined. First, the exemption specifically excludes—in clause (B)—an agricultural employee who is the parent, spouse, child, or other member of his employer's immediate family. With respect to any other agricultural employee, the minimum wage coverage depends on whether his employer used during any of the four preceding calendar quarters during the preceding calendar year more than 500 man-days of agricultural labor performed by employees—other than employees ex-

cluded from the definition of the term "man-day." Thus, if in a calendar quarter there were 75 days during which the employer employed six employees—resulting in 450 man-days of agricultural labor—the exemption would apply and the employees would not be covered by the minimum wage, but if he employed seven employees instead of six during such days—resulting in more than 500 man-days of agricultural labor—his employees would be covered by the minimum wage.

It will be recalled that section 103 of the bill provides that the calculation of man-days is not a simple count of all the workers on a farm. The bill provides that certain agricultural employees not be included in the general count; that is, the labor of certain employees will not be recognized as increasing the man-day count. The employees who will not be included in determining whether or not an individual farm exceeds the 500 man-day criteria are first, the parent, spouse, child, or other member of an agricultural employer's immediate family; or second, an employee who is employed as a hand harvest laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment, commutes daily from his permanent residence to the farm on which he is so employed, and, has been employed in agriculture less than 13 weeks during the preceding calendar year.

The latter category generally defines local, temporary employees, who work during a crop harvest. The committee did not intend to have the limited labor of these employees raise the man-day count above 500. The effect of including these employees in the man-day count would be to cover the employees of small farms which may utilize extensive local and temporary labor during a harvest season.

Section 204. Agricultural processing employees: The bill revises the exemptions relating to agricultural handling and processing contained in section 13(a) and section 7 of the act.

The exemptions in section 13(a) for the following employees have been replaced by new overtime exemptions in section 13(b): First, employees employed by country elevators; second, employees employed in the ginning of cotton, and, third, employees engaged in the transportation of fruit and vegetables or the transportation of farmworkers.

The present exemption in section 13(a)(10) of the act provides a complete year-round exemption from the act's minimum wage and overtime provisions for employees in the area of production and engaged in, first, handling, preparing, storing, compressing, pasteurizing, drying, and preparing agricultural or horticultural commodities in their raw or natural state; second, canning agricultural or horticultural commodities for market; or, third, making dairy products.

This minimum wage and overtime exemption is repealed by the bill.

There is presently in section 7(b) (3) a 14-week overtime exemption, limited to 12 hours a day and 56 hours a week, applicable to employees employed in seasonal industries.

The present overtime exemption in section 7(c) of the act may be summarized as follows:

First. There is a year-round unlimited exemption applicable to employees of employers engaged in first processing of milk, et cetera, into dairy products; cotton compressing and ginning; cottonseed processing, or, the processing of certain farm products into sugar.

Second. There is a 14-week unlimited exemption applicable to employees of employers engaged in first processing, et cetera, of perishable or seasonal fruits or vegetables; first processing within area of production of any agricultural commodity during a seasonal operation, or, handling or slaughtering of livestock and poultry.

These two exceptions are replaced by exemptions contained in new sections 7(c) and 7(d). Section 7(c) provides a 14-week overtime exemption for employees employed in a seasonal industry which is not engaged in agricultural processing, and it is limited to 10 hours a day and 48 hours a week.

The new section 7(d) provides a 14-week overtime exemption, limited to 10 hours a day and 48 hours a week, for employees in an enterprise which is in an industry found by the Secretary of Labor: First, to be of a seasonal nature and engaged in handling, processing, and so forth, of highly perishable agricultural or horticultural commodities in their raw or natural state; or, second, to be characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of such commodities from farms, if such industry is engaged in handling, packing, and so forth, of highly perishable farm products in their raw or natural state.

"Highly perishable agricultural or horticultural commodities" are those which in their raw or natural state are subject to especially rapid deterioration or spoilage unless some affirmative action is taken at once—that is, within 24 hours—to preserve them from a major depreciation in value.

A "seasonal industry" is one which stops its primary operations during those parts of the year when, as a result of natural conditions, the commodities handled in such industry are not available. On the other hand an industry characterized by "seasonal peaks" of operation does not stop its primary operations during the year, but rather, maintains them at a constant level except during certain periods of the year when its operations are greatly expanded to take care of the seasonal influx of the commodities in their raw or natural state. We intend that no employer will be able to avail himself of more than one 14-week overtime exemption under the new sections 7(c) and 7(d) in any calendar year.

Mr. Chairman, I would now like to depart from my analysis of the bill, and direct my comments towards clarifying some aspects of this section. For example, the phrase "highly perishable"

has caused some question in the minds of several Members.

During the extended hearings on the minimum wage amendments, representatives of the food processing industry opposed reducing or eliminating the overtime exemptions applicable to their industry.

The industries position hinged upon the high degree of perishability of their products. They argued that for some fruits and vegetables it was impractical and uneconomic to eliminate overtime work during the peaks of the harvest seasons. It is the industries position that some commodities must be processed immediately after harvest to prevent a substantial depreciation in their value.

The committee was sympathetic to this position. An amendment was adopted to preserve a 14-week overtime exemption for "highly perishable" agricultural or horticultural commodities. The term "highly perishable" was carefully and specifically chosen by the committee to tailor the amendment to the real needs of the agricultural processing industry. The language is intended to distinguish between those products which will spoil over a period of days, weeks, or months, and those products which will deteriorate very rapidly if not processed directly after harvesting, such as green peas, sweet corn, asparagus, Freestone peaches, and soft berries.

If the processing of the crop could be deferred for more than 24 hours, it follows that overtime work would be unnecessary as the work could be done in consecutive 8-hour days.

The Webster's New Collegiate Dictionary defines perishable to mean:

Liable to perish; subject to destruction or deterioration; as, perishable goods.

If this section is amended by striking out the word "highly" we would, in effect, be granting an overtime exemption to the entire fruit and vegetable processing industry without regard to specific need. All fruits and vegetables are perishable. Everyone of them will deteriorate in time. Applying the exemption to all perishable agricultural commodities will go beyond the needs of the industry as stated in their testimony during hearings.

Should an extraordinary situation occur where overtime could not be avoided, it should be noted that the law does not prohibit overtime, but merely seeks to deter excessively long workweeks by requiring the payment of 1½ times the regular rate of pay for hours in excess of 40 in any workweek. There is no prohibition on workdays in excess of 8 hours, nor is overtime pay required. This allows for considerable flexibility on the part of the employer in scheduling his work force during extraordinary circumstances.

There is no earthly reason for allowing overtime work without overtime pay after 40 hours a week where the product being processed is not subject to especially rapid spoilage. In this case the employer can defer the work, hire additional employees, add extra shifts, or pay 1½ times the regular rate of pay in other manufacturing or processing industries. Also, it must be recalled, the 14-week exemption need not be taken in consecu-

tive weeks. An employer can scatter his 14 exempt weeks to take advantage of harvest peaks in his area.

Section 205. Small newspapers: Section 13(a) (8) of the act presently provides a minimum wage and overtime exemption for employees of certain small newspapers if the major part of the newspaper's circulation is within the county in which it is both printed and published, or contiguous counties. This section is amended so that the major part of the newspaper's circulation need only be in the county in which the newspaper is published, or contiguous counties.

Section 206. Transportation companies: The minimum wage and overtime exemption for employees of street, suburban or interurban electric railways, or local trolley or motorbus carriers in section 13(a) (9) is changed to an overtime exemption and limited to drivers, operators, or conductors of local transit companies subject to State or local regulation.

The minimum wage and overtime exemption for employers in the taxicab business in section 13(a) (12) is narrowed to an overtime exemption for taxi drivers in section 13(b) (17).

Section 207. Motion picture theater employees: The bill retains the minimum wage and overtime exemption for employees of motion picture theaters.

Section 208. Logging crews: The minimum wage and overtime exemption provided for crews of 12 men or less engaged in lumbering and forestry operations is amended by this section to provide such an exemption only in the case of crews of 8 men or less.

Section 209. Automobile, aircraft, and farm implement sales establishments: Repeals minimum wage and overtime exemption for all employees in automobile and farm implement sales establishments and provides a new overtime exemption for salesmen, mechanics, and partsmen in such establishments and for salesmen, mechanics, and flight personnel in aircraft sales establishments.

Section 210. Food employees: The bill repeals the minimum wage but maintains an overtime exemption for such employees.

Section 211. Gasoline service stations: Repeals the present overtime exemption for employees of such establishments.

Section 212. Petroleum distribution employees: Amends the overtime exemption to provide an overtime exemption for employment up to 12 hours in any workday and up to 56 hours in any workweek for independently owned bulk petroleum distributors doing less than \$1 million of business annually if more than 75 percent of sales is made intrastate, not more than 25 percent of the distributor's customers purchase for resale, and compensation for hours between 40 and 56 in any workweek is not less than 1½ times the applicable minimum wage.

Section 213. Eniwetok and Kwajalein Atolls and Johnston Island: This section makes the act applicable to employees in Johnston Island and in the Eniwetok and Kwajalein Atolls.

Section 214. Technical and conforming amendments: This section makes a conforming amendment to section 3(n) to

reflect the amendment to section 3(s) and also redesignates the paragraphs remaining in section 13(a) for the purpose of filling the gaps left by the repeals made in this title of the bill.

TITLE III—INCREASE IN MINIMUM WAGE

Section 301. Presently covered employees: Employees now covered by the Fair Labor Standards Act would be entitled to a minimum wage of not less than \$1.40 an hour beginning February 1, 1967, and not less than \$1.60 an hour beginning February 1, 1968.

Section 302. Agricultural employees: The minimum wage for newly covered agricultural employees would be not less than \$1 beginning February 1, 1967; \$1.15 an hour beginning February 1, 1968; and \$1.30 an hour beginning February 1, 1969.

Section 303. Newly covered employees: Employees newly covered by the act, except agricultural employees, would be entitled to a minimum wage of not less than \$1 an hour beginning February 1, 1967; and, through annual increases, to \$1.15 an hour, \$1.30 an hour, \$1.45 an hour, to the \$1.60 an hour over a 4-year period. Thus by February 1, 1971, all nonagricultural employees subject to the act would be receiving a minimum wage of at least \$1.60 an hour.

Section 304. Employees in Puerto Rico and the Virgin Islands: A two-step increase in existing wage order rates would be provided in Puerto Rico and the Virgin Islands—12 percent the first year and 16 percent 1 year later. The review committee procedure provided in the 1961 amendments to the act has been eliminated.

The minimum wages of employees in Puerto Rico and the Virgin Islands covered by the act for the first time would be established by special industry committees subject to the usual standard of reaching "as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed" for the employees involved.

Section 305. Contract services to Federal Government: The bill provides that every employer providing a contract service for the United States shall pay to his employees not less than the minimum wage provided in section 6(a)(1).

When amendments are offered to the bill, the committee will propose that the applicable minimum wage rate be that contained in section 6(b).

Section 306. Federal employees: The bill would incorporate in a new section 18(b) of the act the policy of paying minimum wages and overtime pay as required by the act to Federal wage board employees and to employees of non-appropriated fund instrumentalities. This provision is limited to Federal employment within the States of the Union and the District of Columbia. The provision contemplates the continuance of existing administrative procedures relating to the payment of these workers. But it removes from the realm of administrative discretion the ultimate minimum wage floor.

TITLE IV—APPLICATION OF MAXIMUM HOURS PROVISION

Section 401. Presently and newly covered employees: The bill would retain

the basic concept of time and one-half for hours worked in excess of 40 in a workweek. However, there are three step adjustments to this standard in the case of nonfarm employees to newly covered by the act by this bill. For these employees, the maximum workweek would be 44 hours during the year commencing February 1, 1967; 42 hours during the year beginning February 1, 1968; and 40 hours after February 1, 1969.

Section 402. Commission salesmen: The bill provides that in determining the proportion of compensation representing commissions for purposes of the overtime exemption in the present section 7(h) of the act, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions without regard to whether they exceed a draw or guarantee.

TITLE V—STUDENTS AND MANAGEMENT TRAINEES

Section 501. Students and management trainees—Full-time students: In 1961, Congress amended section 14 of the act to permit—under certificates issued by the Secretary of Labor—the employment of "full-time students" in retail or service establishments at less than the minimum wage otherwise applicable. Such full-time employment—limited to periods outside school hours and to high school age levels—cannot be of a type ordinarily given to a full-time employee. With the benefit of experience under the 1961 amendments, some changes in this provision would be made by the bill. The full-time students could be employed regardless of age, but at not less than 85 percent of the minimum wage applicable to full-time positions. Employment under these certificates would be limited to 20 hours a week except during school vacations when full-time employment would be permitted. The number of students employed under this provision would be limited by the proportion of students employed before the 1961 amendments, and those coming into existence after 1961. Similar provisions are added to the act for employment of students in agriculture.

Management trainees: The bill would provide for the first time an overtime exemption for the employment of management trainees in retail or service establishments under certificates issued by the Secretary of Labor. Such employment would be for a period not to exceed 18 months per trainee. The exemption is limited to training for employment in a capacity which would fall within the act's "white collar" exemption. The exemption is also limited to retail or service establishments having: First, one trainee, if the establishment has 50 employees or less, or, second, a number of trainees not exceeding 3 percent of the total number in the establishment and one additional trainee, if the establishment has more than 50 employees. The ratios are to be measured by the numbers of full-time employees.

Even though within the exemption, management trainees are entitled to time and one-half the applicable minimum wage for hours worked over 40 in a workweek.

Employment of youth: The bill adds a new provision to the act to the effect that

nothing in the act shall require any employer to pay more than 75 percent of the applicable minimum wage to any employee under the age of 21 years during the first 6 weeks of full-time employment of such employee's employment career. In the context of the section, the committee does not contemplate any further diminution of the minimum wage payable under the act by any of its other provisions, such as those relating to "tipped employees."

In using the phrase "6 weeks of full-time employment" the committee intends that—

First. The 6 weeks are to be cumulative and once they have been reached the employee can no longer be employed at the special 75-percent rate;

Second. The term "weeks of full-time employment" must be read with the limitation relating to the employee's employment career. Only a full week of full-time employment would qualify an employee for the special rate.

TITLE VI—STATUTE OF LIMITATIONS AND EFFECTIVE DATE

Section 601. Statute of limitations: statute of limitations for the FLSA—to and the Portal Act—which contains the statute of limitations for the FLSA—to provide a 3-year—rather than a 2-year—statute of limitations for causes of action arising out of a willful violation of this law.

Section 602. Effective date: The amendments made by the bill shall take effect on February 1, 1967.

Section 603. Study of excessive overtime: The Secretary of Labor is instructed to study present practices dealing with overtime work and to report to the Congress by July 1, 1967.

Mr. Chairman, the Federal minimum wage laws can play a vital role in eliminating poverty and shunning any compromise with human dignity of America's workers. But it is becoming less—rather than more—effective in achieving this goal. Today, a smaller percentage of the Nation's private nonsupervisory nonagricultural workers is covered by the Fair Labor Standards Act than was covered by the act's initial provisions in 1938.

Half of all women workers and more than half of all nonwhite workers are now in jobs not covered by the Fair Labor Standards Act, and are paid wages which are frequently below \$1.25 an hour and sometimes far below that wage.

Mr. Chairman, this bill represents an effort to fulfill the promise of the original act and to reestablish its role as the major instrument of the Nation's fair labor standards policies. It reflects a reexamination of current needs to remove substandard working conditions and an effort to change the act to remedy those needs.

I therefore strongly urge its immediate enactment.

H.R. 13712—SUMMARY OF THE PROPOSED FAIR LABOR STANDARDS ACT AMENDMENTS AS REPORTED BY THE COMMITTEE ON EDUCATION AND LABOR, MARCH 21, 1966

I. PURPOSE

A. To extend minimum wage and overtime protection to certain employees:

Minimum wage protection will be extended to employees in the following:

Retailing, including auto, truck and farm implement dealerships.

Construction.

Laundrying and drycleaning.

Transit and taxicab systems.

Restaurants and food service establishments.

Logging.

Agriculture and agricultural processing.

Hotels and Motels.

Hospitals and related institutions.

Federal Government.

Federal service contract.

Overtime protection will be extended to employees in the following:

Retailing, including auto, truck, and farm implement dealerships (excluding salesmen, mechanics, and partsmen).

Construction.

Laundrying and drycleaning.

Transit and taxicab systems (excluding operating employees).

Logging.

Agricultural processing.

Hospitals and related institutions.

Gasoline service stations.

Federal Government.

Federal service contract.

B. To raise the minimum wage:

Employees	Hourly rate	Effective date
Presently covered (29,600,000)---	\$1.40	Feb. 1, 1967
	1.60	Feb. 1, 1968
Newly covered (nonfarm) (6,093,000).	1.00	Feb. 1, 1967
	1.15	Feb. 1, 1968
	1.30	Feb. 1, 1969
	1.45	Feb. 1, 1970
	1.60	Feb. 1, 1971
Agriculture (485,000)-----	1.00	Feb. 1, 1967
	1.15	Feb. 1, 1968
	1.30	Feb. 1, 1969
Federal employees (665,000)-----	1.40	Feb. 1, 1967
	1.60	Feb. 1, 1968
Federal service contract-----	1.40	Feb. 1, 1967
	1.60	Feb. 1, 1968

C. To provide overtime protection for newly covered employees:

A newly covered employee must receive compensation at a rate not less than 1½ times the regular rate at which he is employed for hours of employment in excess of—	Effective date
44 hours in any workweek-----	Feb. 1, 1967
42 hours in any workweek-----	Feb. 1, 1968
40 hours in any workweek-----	Feb. 1, 1969

II. EXTENSION OF MINIMUM WAGE

Estimated distribution of nonsupervisory employees who would be brought under minimum wage protection of the act in 1967 and 1969 by the bill¹

[In thousands]

Industry	Employees added to minimum wage coverage			Total employees subject to minimum wage provisions
	1967	1969	Total	
Retail trade-----	1,155	345	1,500	4,086
Restaurants-----	300	125	425	432
Hotels and motels-----	240	35	275	275
Hospitals and related institutions-----	1,471	-----	1,471	1,471
Miscellaneous services-----	20	30	50	349
Laundries-----	505	-----	505	523
Agriculture-----	485	-----	485	485
Transit systems-----	60	5	65	65
Agriculture in area of production-----	90	-----	90	90
Taxicabs-----	75	25	100	100
Logging-----	37	-----	37	37
Cotton ginning-----	34	-----	34	34
Construction-----	581	-----	581	2,994
Federal Government-----	665	-----	665	665
All other industries-----	570	390	960	25,230
Total-----	6,288	955	7,243	36,836

¹ Based on estimated employment in 1964.

NOTE.—These estimates do not reflect coverage of employees of employers providing contract services for the United States.

III. BRIEF SECTION-BY-SECTION ANALYSIS

Title I—Definitions

SECTION 101. *Tips*.—Provides that the wage paid by an employer to a tipped employee shall be deemed to be increased on account of tips by an amount determined by the employer, but such amount shall not exceed 35 percent of the applicable minimum wage rate during the first 2 years from the effective date of the Fair Labor Standards Amendments of 1966, 40 percent during the third and fourth years, and 45 percent thereafter. Directs the institution of a procedure for reconsideration of the amount attributed as tips upon appeal by the employee.

Defines "tipped employee" as an employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips.

SEC. 102. *Definition of enterprise*.—Amends definition of "enterprise" and "employer" to include public and private, proprietary and nonproprietary hospitals (excluding Federal Government hospitals) and related institutions and, also, institutions of higher education regardless of whether or not such institutions are public or private or operated for profit or not for

profit. Further amends definition of "enterprise" and "employer" to include public and private, proprietary, and nonproprietary transit systems.

Also amends the definition of an "enterprise engaged in commerce or in the production of goods for commerce" to include an enterprise which has employees engaged in commerce or in the production of goods for commerce and which (1) during the period February 1, 1967, through January 31, 1969, has an annual gross volume of sales of not less than \$500,000, or is a gasoline service establishment with an annual gross volume of sales of not less than \$250,000, (2) beginning February 1, 1969, has an annual gross volume of sales of not less than \$250,000, (3) is a laundry or drycleaning enterprise or a construction enterprise, or (4) is a hospital, nursing home, institution of higher education, or other related institution (regardless of whether or not such hospital, institution or school is public or private or operated for profit or not for profit). There is no dollar volume test for the following types of enterprises: laundries, drycleaning, construction, educational or hospital, nursing home, and similar institutions. "Mom and Pop" estab-

lishments remain excluded. Individual retail or service establishments meeting the percentage tests in section 13(a)(2) and with annual sales of less than \$250,000 remain excluded under section 13(a)(2) of the Act.

SEC. 103. *Agricultural employees*.—Excludes from definition of employee, for the purpose of computing "man-days" of agricultural labor, "the parent, spouse, child, or other member of the agricultural employer's immediate family," and "any individual who is employed by an employer engaged in agriculture if such individual (a) is employed as a hand harvest laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment, (b) commutes daily from his permanent residence to the farm on which he is so employed, and (c) has been employed in agriculture less than 13 weeks during the preceding calendar year." Defines "man-day" to mean any day during which an employee performs agricultural labor for the employer.

TITLE II—REVISION OF EXEMPTIONS

SEC. 201. *Hotel, restaurant, and recreational establishments; hospitals and related institutions*.—Repeals the minimum wage exemptions for such establishments (except seasonal recreational and amusement establishments). Maintains overtime exemptions for such establishments (except hospitals and related institutions).

Exempts any employee employed by any retail or service establishment (but not employees of laundries or drycleaning establishments or employees of hospitals and related institutions) which are doing less than \$250,000 of business annually.

SEC. 202. *Laundry and drycleaning establishments*.—Repeals minimum wage and overtime exemptions.

SEC. 203. *Agricultural employees*.—Amends minimum wage exemption to retain such exemption for agricultural employees employed by an employer who did not, during any calendar quarter of the preceding calendar year, use more than 500 man-days of agricultural labor. Members of the employer's immediate family are also exempt from the minimum wage. Maintains overtime exemption for agricultural employees, including livestock auctioneers.

SEC. 204. *Agricultural processing employees*.—Repeals minimum wage and overtime exemption for agricultural processing employees in the "area of production"; repeals minimum wage but maintains overtime exemption for employees of country elevators located in "area of production," repeals minimum wage but maintains overtime exemption for cotton ginning employees, and repeals minimum wage but maintains overtime exemption for certain fruit and vegetable transportation employees.

Amends 14-week overtime exemption for seasonal industries (other than agricultural processing) to require compensation for hours of employment in excess of 10 in any workday or in excess of 48 in any workweek at not less than 1½ times the regular rate.

Amends exemptions applicable to agricultural processing to provide for a single 14-week overtime exemption for processing of highly perishable agricultural or horticultural commodities in their raw or natural state, but the exemption requires compensation for hours worked in excess of 10 in any workday or in excess of 48 in any workweek at not less than 1½ times the regular rate of pay for such employees. Only one 14-week overtime exemption for a calendar year may now apply to any employer.

SEC. 205. *Small newspapers*.—Provides minimum wage and overtime exemption for employees of such newspapers published in the county of major circulation.

SEC. 206. *Transportation companies*.—Repeals minimum wage exemption but provides

overtime exemption for operating employees of transit and taxicab companies.

SEC. 207. *Motion picture theater employees.*—Retains minimum wage and overtime exemption.

SEC. 208. *Logging crews.*—Reduces minimum wage and overtime exemption criteria from a 12-man crew to an 8-man crew.

SEC. 209. *Automobile, aircraft, and farm implement sales establishments.*—Repeals minimum wage and overtime exemption for all employees in automobile and farm implement sales establishments and provides a new overtime exemption for salesmen, mechanics, and partsmen in such establishments and for salesmen, mechanics, and flight personnel in aircraft sales establishments.

SEC. 210. *Food service employees.*—Repeals minimum wage but maintains overtime exemption.

SEC. 211. *Gasoline service stations.*—Repeals overtime exemption.

SEC. 212. *Petroleum distribution employees.*—Amends overtime exemption to provide an overtime exemption for employment up to 12 hours in any workday and up to 56 hours in any workweek for independently owned bulk petroleum distributors doing less than \$1 million of business annually if more than 75 percent of sales is made intrastate, not more than 25 percent of the distributor's customers purchase for resale, and compensation for hours between 40 and 56 in any workweek is not less than 1½ times the applicable minimum wage.

SEC. 213. *Eniwetok and Kwajalein Atolls and Johnston Island.*—Extends jurisdiction of Act.

SEC. 214. *Technical and conforming amendments.*

TITLE III—INCREASES IN MINIMUM WAGE

SEC. 301. *Presently covered employees.*—Raises minimum wage for employees covered prior to enactment of 1966 amendments to not less than \$1.40 an hour beginning February 1, 1967, and not less than \$1.60 an hour beginning February 1, 1968.

SEC. 302. *Agricultural employees.*—Provides a minimum wage for newly covered agricultural employees of not less than \$1.00 an hour beginning February 1, 1967; not less than \$1.15 an hour beginning February 1, 1968; and not less than \$1.30 an hour beginning February 1, 1969.

SEC. 303. *Newly covered employees.*—Provides a minimum wage for employees covered by the Act for the first time by the 1966 amendments (other than newly covered agricultural employees) at not less than \$1.00 an hour beginning February 1, 1967; not less than \$1.15 an hour beginning February 1, 1968; not less than \$1.30 an hour beginning February 1, 1969; not less than \$1.45 an hour beginning February 1, 1970; and not less than \$1.60 an hour beginning February 1, 1971.

SEC. 304. *Employees in Puerto Rico and the Virgin Islands.*—Provides for a percent minimum wage increase for employees in Puerto Rico and the Virgin Islands who are covered by wage orders presently in effect, which is the equivalent of the percent increase on the mainland. Provides for minimum wages for employees brought within coverage of the Act for the first time by the 1966 amendments at rates to be set by special industry committees so as "to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed" for newly covered mainland employees. Eliminates the review committees established by the 1961 amendments.

SEC. 305. *Contract services for Federal Government.*—Every employer providing a contract service for the United States shall pay to his employees the minimum wage provided in section 6(a)(1).

SEC. 306. *Federal employees.*—Establishes minimum wage and overtime coverage for certain Federal wage-board employees and employees in nonappropriated fund instrumentalities under the jurisdiction of the Armed Forces.

TITLE IV—APPLICATION OF MAXIMUM HOURS PROVISION

SEC. 401. *Presently and newly covered employees.*—Maintains provision for 40-hour workweek and compensation for employment in excess of 40 hours at not less than 1½ times the regular rate of pay. For employees covered by the overtime provision for the first time by the 1966 amendments the workweek is phased in beginning at 44 hours during the year beginning February 1, 1967; at 42 hours during the year beginning February 1, 1968; and 40 hours after February 1, 1969.

SEC. 402. *Commission salesmen.*—Provides that in the application of a bona fide commission rate, "commissions" shall be deemed commissions without regard to whether they exceed the draw or guarantee.

TITLE V—STUDENTS AND MANAGEMENT TRAINEES

SEC. 501. *Students and management trainees.*—Amends full-time student provision to provide for the employment of full-time students regardless of age (but in compliance with the applicable child labor laws) outside of their school hours in retail or service establishments or in agriculture at not less than 85 percent of the minimum wage in full-time positions during school vacations or in part-time positions not to exceed 20 hours in any workweek under certificates issued by the Secretary.

Limits number of students to be hired at subminimum wages in retail or service establishments to the proportion of hours of student employment to total employment now in the establishment or similar establishments prior to the 1961 amendments.

Provides an overtime exemption for the employment of management trainees in retail or service establishments limited to 18 months per trainee if such training is for an administrative or executive position and the trainee receives not less than 1½ times the applicable minimum wage for hours worked in excess of 40 in any workweek and the trainee is not employed for more than 48 hours in any workweek.

A limitation of one trainee to an establishment with 50 or fewer employees or a number of trainees equal to a maximum of 3 percent of the total number of employees in an establishment with more than 50 employees is provided.

Further provides that no employer shall be required to pay in excess of 75 percent of the applicable minimum wage to any employee under the age of 21 years during the first 6 weeks of full-time employment of such employee's employment career.

TITLE VI—STATUTE OF LIMITATIONS AND EFFECTIVE DATE

SEC. 601. *Statute of limitations.*—Maintains 2-year statute of limitations, except in the case of a willful violation where a 3-year statute of limitations is provided.

SEC. 602. *Effective date.*—The amendments made by this Act shall take effect on February 1, 1967. On and after the date of the enactment of this Act the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

SEC. 603. *Study of excessive overtime.*—The Secretary is instructed to study present practices dealing with overtime work and to report to the Congress by July 1, 1967.

Mr. AYRES. Mr. Chairman, I yield myself such time as I may consume.

(Mr. AYRES asked and was given permission to revise and extend his remarks.)

Mr. AYRES. Mr. Chairman, I, too, want to commend the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. DENT] and also the ranking member of the subcommittee, the gentleman from California [Mr. BELL] for the superb job they have done in bringing this legislation to the Congress this afternoon.

As the gentleman from Pennsylvania pointed out, there is always some disagreement in legislation and there are a number of points in disagreement in this bill.

Mr. Chairman, the pending bill H.R. 13712, amending the Fair Labor Standards Act, will cause the linen supply industry to be covered by the minimum wage requirements of the Fair Labor Standards Act for the first time in the history of the industry. The coverage proposed will be all inclusive. Every linen supplier in the country with the exception of certain "Mom and Pop" operations will be covered.

In recognition of this fact and of the similar circumstances occurring in other newly covered industries, the pending bill imposes an escalating wage scale allowing employers to build up to \$1.60 per hour. The industry has supported the bill as it feels that the escalation provision serves the best interests of both labor and industry.

However, it also feels that section 305 of the bill relating to the Service Contract Act establishes unfair requirements when applied to newly covered industries such as theirs.

Under the Service Contract Act, as interpreted by the Department of Labor, all linen suppliers who accept Government contracts must pay all employees who work on said contracts the minimum wage for the time worked on the Government contracts even if such employees are otherwise not covered by or are exempt from the Federal minimum wage law.

The same requirement is imposed on other service industries. Linen suppliers cannot distinguish between work done on Government contracts and work performed on nongovernment contracts.

As an example, assume a linen supplier enters into a contract to provide tablecloths for the Rayburn Building. In accord with specifications set forth in an invitation to bid, the linen supplier agrees to furnish the Rayburn Building with 2,500 clean tablecloths a week over a 1-year period. Assume also, as is true in most cases in the industry, that the linen supplier has contracts with other customers who use an identical tablecloth as that requested by the Rayburn Building. The linen supplier maintains a general inventory of tablecloths of the kind in question. Dirty tablecloths are picked up in a truck. The driver of the truck, in the course of his employment, operates on an established route which includes Government operations.

After picking up the dirty linen, the routeman returns to the linen supply company and unloads his soiled linens. The soiled linens are then sorted, intermingled, and placed in commercial washing machines, extractors, driers, ironers, and folders. After the laundry operation

is completed, the tablecloths are placed in inventory. Thereafter they will be shipped to whatever customer of the linen supplier is in need of these tablecloths on the basis of "first in first out." As a result, there is an intermingling of tablecloths. Those tablecloths which were on the tables of the Rayburn Building one week may be at the Statler Hilton the next week. The Department of Labor has ruled that the linen supplier must pay his employees the minimum wage established under the Service Contract Act based not on the proportion of Government business to nongovernment business but solely on the basis of whether or not in any day, the worker performed any work on a Government contract. If such work was performed, even though it occurred for only a small percentage of the total work performed by the employee, the employee must receive the minimum wage under the Service Contract Act for the total time worked that day.

Referring back to the example of the Rayburn Building, if we assume that the Rayburn Building is the only Government contract held by the local linen supplier and the routeman picks up and delivers linen on a daily basis, every production employee in the linen supplier's plant who has control of a piece of laundry equipment during which time any linen coming from the Rayburn Building is being laundered in connection with said equipment must be paid the minimum wage. This is true even though the amount of Rayburn Building linen being laundered by such equipment is only a minute portion of the total linen being so laundered at that time. The linen supplier presently serving the Rayburn Building pays his employees at the rate of approximately \$1.27 an hour. This linen supplier is covered by the District of Columbia minimum wage law. Under the pending bill, this linen supplier will be required to pay his employees as of February 1, 1967, the sum of \$1.40 an hour. The linen supplier in question has indicated that it would not be economically feasible for him to pay the \$1.40 an hour on the basis of the Rayburn Building contract. He will, therefore, give up that contract and all other Government contracts that he may have as of February 1, 1967.

As was stated during the discussion of the rule, every Member of the House of Representatives has received a memorandum listing the amendments that we know will be offered and an explanation of those amendments has also been included with the memorandum. If you have not seen that, I would suggest you take a look at it before the amendments are voted on tomorrow.

For the benefit of the members of the committee, it is hoped that the general debate will be finished today, and that the bill will be read for amendment tomorrow.

During the course of the afternoon various members of the committee who have amendments to offer will discuss the proposed amendments so that you can check the RECORD and check the memorandum that has come out, and

perhaps tomorrow, when the amendments are being debated and considered, you will be more familiar with the proposal.

The gentleman from New York [Mr. GOODELL] will have several amendments. The gentleman from Nebraska [Mr. MARTIN] will have several amendments. The gentleman from California [Mr. GUBSER] will have an amendment. The gentleman from New Mexico [Mr. MORRIS] will have an amendment and, I might say, a very important one. You have already heard that the chairman of the committee, the gentleman from New York [Mr. POWELL], will have an amendment to offer which, it is my understanding, would delete some of the provisions in the bill dealing with Puerto Rico.

You all heard the Commissioner from Puerto Rico explain in a very detailed manner why, in his judgment, as the representative of that Commonwealth, he felt that the provision of the chairman, the gentleman from New York [Mr. POWELL], should be supported when we vote on the amendment tomorrow.

The gentleman from Florida [Mr. GURNEY] will have an amendment. The gentleman from Tennessee [Mr. GRIDER] will have an amendment. No doubt there will be other amendments offered. But you have received an explanation of the amendments which these gentlemen will offer, and most of them will speak this afternoon.

The only amendment that I shall offer will deal primarily with that provision in the bill that comes under the Government Service Contract Act. The pending bill, H.R. 13712, amending the Fair Labor Standards Act, will cause the linen supply industry to be covered by the minimum wage requirements of the Fair Labor Standards Act for the first time in the history of that industry.

Back in 1961, when we amended the act before, the linen supply industry and laundries were exempt. At that time the amendment was offered by a former Member of this body, and now retired voluntarily, the gentleman from Georgia, Mr. Vinson.

The coverage that is proposed now will be all inclusive. Every linen supplier in the country, with the exception of certain "mom and pop" operations will be covered. In recognition of this fact and similar circumstances occurring in other newly covered industries, the pending bill would impose an escalating wage scale which would allow employers to build up to \$1.60 per hour. The industry has supported the bill, as it feels the escalation provision serves the best interests of both labor and industry.

As the gentleman from Pennsylvania said, the laundry workers are for this general provision rising to \$1.60 an hour, and so are the owners of the industry. However, I do feel that section 305 of the bill expanding the Service Contract Act establishes unfair requirements when applied to newly covered industries such as theirs.

Mr. Chairman, this particular provision is very important, because under the

Service Contract Act, as interpreted by the Department of Labor, all linen suppliers who accept Government contracts must pay all employees who work on such contracts the minimum wage for the time worked on Government contracts, if such employees are not otherwise covered by or are exempt from the Federal minimum wage law. The same requirement is imposed upon other service industries. Linen suppliers cannot distinguish between work done on Government contracts and work performed on non-Government contracts.

As an example, assume a linen supplier enters into a contract to provide tablecloths for the Rayburn Building in accord with specifications set forth in the invitation to bid. The linen supplier agrees to furnish the Rayburn Building with 2,500 clean tablecloths a week over a 1-year period.

Under the act we are only covering the laundry workers for the first time. If there is no Government contract involved, then these workers will be covered at \$1 an hour. But if a Government contract is involved, then the rate will be at \$1.40 an hour.

Mr. Chairman, is it possible to have, let us say, 25 employees in a laundry, and only 5 of those employees are needed to iron the shirts of the GI who sends them in from the Army camp under contract, and to pay those five employees \$1.40 an hour for the work they do and just a few feet away pay someone \$1 an hour for doing exactly the same work because he is working on non-Government work?

It takes just as much effort to iron a GI shirt as it does to do yours, Mr. Chairman.

Now, insofar as the cancellation of the contract in the Rayburn Building is concerned, we do a lot of crazy things around here occasionally, and a few of them have happened in that building.

Do the Members know that we have a beautiful car wash over there, which has hot and cold running water and which has drains? If we should lose our contract, I do not want anyone to worry about having clean tablecloths, because I have checked the space out, where the car wash is supposed to be—and we do not have a car wash because there is not room for the cars, but the pipes are there and the drain is there—and I presume it would be entirely possible to install a few automatic laundromats, and we would be assured of being able to do our own linens, provided we wished to have a "do it yourself" program. It is entirely feasible. It would be ridiculous, exactly as it is absurd to try to have two rates under the provisions of this bill.

Let us take a quick survey to see what the situation is in other areas of the country with regard to this section of the bill.

In the linen supply industry large Government contracts are usually bid on an annual basis. Small contracts and specialized contracts are negotiated and have varied terms. The larger contracts run on a fiscal year basis. As a result, the problems in this area will become

critical at the close of fiscal year 1966. The Naval Air Station in Key West, Fla., and the Naval Air Station in Boca Chica, Fla., are serviced by a Miami, Fla., linen supplier. The linen supplier in question operates a union plant. The negotiated wage rate established at the plant as a result of management-union—International Laundry Workers Union—agreement is 94 cents an hour. The annual contract expires June 30, 1966. The linen supplier has advised the naval air stations that he will not be able to serve them after that date. There is no source of supply other than the linen supplier in question. The same situation holds true for the Army Induction Station in Coral Gables, Fla., and the Monroe General Hospital, the only county hospital in the Key West area.

In Jacksonville, Fla., a linen supplier reports sales of \$12,000 per month under contracts with Cecil Field, the Jacksonville Naval Air Station and the Army Recruiting Station. The linen supplier operates a union shop at a negotiated wage rate of 98 cents an hour. The linen supplier has advised the military that when the annual contracts expire on June 30, 1966, he will not be able to supply any more linen.

Fort Knox, Ky., is served by various linen supply contracts running approximately \$10,000 per month. The local linen supplier pays a negotiated union wage of \$1.22½ per hour. Officials at Fort Knox, Ky., have been informed that at the end of the fiscal year, local linen suppliers will not be able to serve them due to the Service Contract Act requirements.

In Alexandria, Va., a linen supplier presently paying a negotiated union wage of \$1.27 an hour has informed the Naval Intelligence Bachelor Officers Quarters that it would be unable to service them if the proposed bill is adopted in its present form.

The fact that linen supplies are essential to military installations can be seen from the following example. In the Norfolk-Portsmouth-Newport News area, 20 percent of the average linen suppliers' business is under Government contract. The International Laundry Workers wage rate is 92 cents an hour. The Marine Corps Navy Amphibious Base at Little Creek, Va., requires 3,000 to 4,000 sheets weekly. When the contract recently expired, bids were requested. No bids were received. In order to get sheets, the small contract existing between a local linen supplier and the base bachelor officers quarters was expanded. Three thousand to four thousand sheets per week were added to the bachelor officers quarters. On September 1, 1966, this contract will expire.

In South Carolina the 6th Naval District Navy shipyards have been informed by local linen suppliers that no bids would be submitted in response to the shipyards' request for the \$1,200 per month in bed linen. Similar situations occurred at various bachelor officers quarters and the U.S. Naval Hospital in Charleston, S.C., and the Charleston Air Force Base in Myrtle Beach, S.C.

In Nebraska, linen suppliers are paying a wage rate of \$1 an hour. Recently, the

Grand Island, Nebr., Ammunition Depot was reactivated. The depot messhall needs tablecloths and napkins. Three linen suppliers have large enough facilities to handle the job. All three linen suppliers refuse to bid on the contract.

As a final example, there are 17 Veterans' Administration hospitals presently using commercial laundry facilities under annual contracts running on a fiscal year basis. A recent survey by the Veterans' Administration indicates that due to the Service Contract Act, linen suppliers will be unable to bid on Government contracts. As a result, 17 hospitals face a critical situation.

As can be seen from these examples, linen suppliers in many areas of the country have found it economically impossible to accept Government contracts. The provisions of section 305 of this bill will compound the problem. Under section 305, many Government hospitals, military bases and other Government facilities will be unable to obtain either linen supplies or commercial laundry facilities. Furthermore, because linen suppliers will no longer be able to handle Government contracts and will thus have to cut down on the number of employees, unemployment will be increased. It is expected that many marginal linen suppliers will be unable to combat the loss of Government business and will fail.

The provisions contained in section 305 require that linen suppliers accepting Government contracts pay all employees the higher minimum wage rates established for presently covered employees.

This requirement will effectively eliminate the possibility of participation in Government contracts for a major portion of the industry. Such a requirement will cause extreme hardship for Government facilities including hospitals. Such a requirement will cause further unemployment.

If my amendment is accepted or approved, the difficulties I have described would disappear without denying to the employees in the industry the benefits provided by other provisions of the pending bill.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. AYRES. I yield to the gentleman from California.

Mr. BURTON of California. The gentleman from Ohio is pointing out the effect of current law, which has absolutely nothing to do with the provisions of the proposal before us. It is the law of the land that Federal contractors must pay the top minimum wage for those employees working on Federal contract work.

There is a question I should like to pose to the gentleman from Ohio. The gentleman has stated two apparently irreconcilable points of view.

He has stated that he dislikes the provision of section 305 in that it requires an employer to pay the same minimum wage to all of its employees if they—the employer—does contract work. He also has stated he dislikes the current law which states they may pay a different wage rate, the higher minimum to those employees doing Federal work and a different minimum for those not doing Federal work.

The question I would pose to the gentleman from Ohio is this: which form does he think the law should take—require as proposed in section 305 the same wage be paid, or the current law which is that a wage differential is allowed? We must do one or the other.

Mr. AYRES. My amendment changes the Service Contract Act. I would be glad to put the amendment in the Record, I will say to my good friend from California. Notwithstanding the existing law it brings all laundries and linen suppliers, whether they are doing Government contract work or not, under the provision for the newly covered.

Mr. BURTON of California. Is the gentleman suggesting that you cannot pay \$1.25 an hour as provided in the current law, for those employees doing the contract work?

As the gentleman knows, that would be the effect of his proposal, that is, to reduce by the current minimum 25 cents an hour. I do not think it is consistent with the gentleman's record in this House. I am certain that would be the effect, but I am not sure it is the intention of the gentleman from Ohio.

Mr. AYRES. It would not be the effect. I admit to the gentleman in maybe two or three instances throughout the country it might be, but in most cases these contracts have been negotiated contracts, as I pointed out here, at \$1.27 and \$1.22. My main reason is, having employed people throughout the years, I have never seen an operation where you can have the same people doing the same work on the same job under the same roof with two sets of wages. It just does not work.

Mr. BURTON of California. Section 305, as you know, currently proposes the same standard minimum be paid to all employees. Management came to us and requested that we make a modification for those employees not serving on Government work. So it has been management that has come to the committee and requested that we do not require the same wage but permit a differential, a higher wage, be paid to those doing Federal work and a lower wage be paid to the rest of their employees. It was management's request and not the committee's original recommendation.

Mr. AYRES. All management has not come to me nor all laundry workers, but I have been familiar with the Government contract operation. I do feel it is absolutely essential that the employees doing the same type of work be paid the same scale and be covered under the same provision as the newly covered are.

Mr. GOODELL. Mr. Chairman, will the gentleman yield?

Mr. AYRES. I yield to the gentleman from New York.

Mr. GOODELL. I think it should be clarified in the Record the present provision will affect different types of operations differently. You have some types of activities where it is a coherent entity that operates and it is inseparable as to the type of work done under Government contract and in general private work. You have a number of other employers, however, who may have certain types of operation that cater to the Government with a Government con-

tract. It may be a very small proportion of their work. This employer was the one type of employer who wants to raise the question with us, if they did a contract or two contracts for the Government under the way the bill is written today, as pointed out by the gentleman from California, all their employees would be covered. If, for instance, a restaurant operation had a few contracts to cater to Government facilities, then all their restaurants would be covered under the higher minimum wage of \$1.40 and \$1.60, instead of coming in at the \$1 and \$1.15 level.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield at this point?

Mr. AYRES. I yield to the gentleman.

Mr. BURTON of California. As the gentleman knows, because of the interest expressed by him and our distinguished colleague from California [Mr. BELL] and others, we are modifying that provision.

Mr. GOODELL. That is correct.

Mr. BURTON of California. I point out the inherent difficulty in meeting some of the legitimate concerns expressed by management without arriving at an end result which cannot be attacked as being arbitrary. It would be somewhat ironic if we find that changes which management requested and which will be accepted, presumably, will be submitted to attack as a wage disparity. That is the point I am trying to make.

Mr. GOODELL. I believe the example—and I do not know if the gentleman from California has an answer to the example raised by the gentleman in the well, the gentleman from Ohio [Mr. AYRES]—but it is a difficult one, where a laundry, for instance, may do a share of Government work and then contract out, how they can operate their employees at different rates of pay in the same laundry operation. That is a very difficult question and a legitimate one which has been raised by the gentleman from Ohio.

Mr. AYRES. I thank the gentleman from New York and also the gentleman from California [Mr. BURTON].

So, Mr. Chairman, that the RECORD is straight to those who view it between now and the time the amendment is considered tomorrow, I ask unanimous consent that it be inserted in the RECORD at this point.

The CHAIRMAN pro tempore (Mr. HOLIFIELD). Is the amendment to be included the amendment of the gentleman from Ohio?

Mr. AYRES. It is, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The amendment referred to follows:

On page 51, lines 2 through 9, section 305 is amended to read as follows:

"Sec. 305. Section 6 of such Act is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law (except section 13(a)(1) of this Act), every employer providing a contract service under a contract with the United States or any subcontract thereunder, shall pay to each

of his employees wages at rates not less than the rates provided under section 6(b) of this Act, and not less than the rates provided under section 6(a)(1) if otherwise applicable under the provisions of this Act: *Provided*, That every such employer shall pay to each of his employees wages at rates not less than the rates provided under section 6(a)(1) of this Act if more than 50 per centum of the gross annual dollar volume of sales of such employer is derived from providing any such contract service under such contracts or subcontracts."

EXPLANATION

Section 305 of the pending bill requires an employer who performs any contract service under a contract or subcontract with the Federal government to pay all of his employees not less than the highest minimum wage rate applicable to presently-covered employees.

This amendment changes that requirement for employees of federal government service contractors or subcontractors as follows:

1. All such employees who are presently covered would receive not less than the highest minimum wage applicable to presently covered employees (\$1.40 beginning Feb. 1967).

2. All the rest of such employees, whether newly-covered or exempt, would receive not less than the minimum wage applicable to newly covered employees (\$1.00 beginning Feb. 1967).

3. If more than 50 percent of the annual dollar volume of business of the employer consists of performing contract services for the federal government, all the employees would receive not less than the highest minimum wage applicable to presently covered employees (\$1.40 beginning Feb. 1967).

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. AYRES. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I listened very carefully to the gentleman from Ohio and to the example that he has used this afternoon. Permit me to make this observation, that ordinarily it is not considered in good form for a Member of our process to wash his dirty linen in public, and the gentleman has washed a little dirty linen in the House this afternoon. But I believe in his case it has been a very constructive contribution. This is the kind of amendment that I believe can serve to make this a better bill.

Mr. AYRES. I thank the gentleman from Illinois for his observation.

Mr. Chairman, the ranking member of the subcommittee, the gentleman from California [Mr. BELL], if he desires any time—and since I have consumed more than I should have consumed, I shall be glad to offer time to those members of the committee who may want to comment on the provisions of the bill.

I yield such time as he may consume to the gentleman from California [Mr. BELL].

(Mr. BELL asked and was given permission to revise and extend his remarks.)

Mr. BELL. Mr. Chairman, last year, when amendments to the Fair Labor Standards Act were considered by the House Education and Labor Committee I had a number of reservations concerning certain provisions of the committee passed bill.

It was my concern that even though there was a recognized need for extend-

ing protection of the Fair Labor Standards Act to a great mass of workers, the approach taken by the bill was not reasonably measured to effect the remedy while avoiding the dangers of excessive change.

Last year's legislation was not in keeping with the act's policy of eliminating "conditions detrimental to the maintenance of the minimum standard of living without substantially curtailing employment or earning power."

Mr. Chairman, as I shall point out, amendments encompassed in the bill before you have sufficiently overcome my objections.

I therefore rise in support of H.R. 13712.

This Nation in recent years has turned its concerned attention to the unfortunate minority of our fellow citizens who have somehow been left behind by the blinding economic progress of the past 25 years.

We are told that 35 million of our citizens live in poverty.

Many of them, full-time workers with year-round jobs.

It is my firm belief that extension of this act will go far to bring these workers at least a beginning toward a minimum standard of living.

The committee, in studying this aspect of the bill, found that in industries covered by the act, 8 to 14 percent of workers who were family heads received less than \$3,000 during 1963.

However, for those not covered by the act, 33 to 49 percent of family bread winners earned less than \$3,000 a year.

We should be shocked to know that 40 percent of all children living in poverty were in families where there was a worker who had a full-time job throughout the year.

And I would call the Members' attention to the fact that the minimum wage this bill seeks to establish in 1967 for those now covered by the act will yield an annual income of \$2,800 for a 40-hour week.

Not even equal to the minimum standard set by the poverty program.

Today we have an opportunity to strike a blow against poverty while at the same time strengthening the free enterprise system.

By giving those at the lowest economic levels a bargaining position we are allowing them to earn their way and encouraging them to work toward catching up.

This, to me, is a logical way to fight poverty.

Down through the years leaders of both parties have seen the vital need for this legislation.

Senator Taft, when he debated amendments to the Fair Labor Standards Act in 1949, stated that he thought—

We have an obligation to get * * * the minimum wage up to a point where people in general get the value that they are entitled to receive.

Taft went on to say that "a minimum wage theory is consistent with the maintenance of a free enterprise system."

President Eisenhower, each year from 1954 through 1959, urged Congress to extend coverage of the minimum wage.

As stated in the policy of the act, our goal is the elimination of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers.

When farmworkers in certain parts of the country are receiving only \$3 per day there is need for action.

Briefly, these amendments would extend coverage of the act to approximately 7,243,000 workers who are in one way or another engaged in interstate commerce.

They would effect a raise in the minimum wage for workers who are now covered by the act from the present \$1.25 per hour to \$1.40 in 1967 and to \$1.60 in 1968.

Last year's amendments would have pushed the minimum rate to \$1.75 in 1968, a rise that I felt was unrealistic.

For those workers who will come under the act for the first time with the passage of these amendments, there is a provision to hike minimum wage rates beginning from \$1 in 1967 at 15-cent increments, reaching the \$1.60-per-hour level in February 1971.

Last year's bill would have reached \$1.75 in 1970.

The rates proposed by this bill are identical to rates I unsuccessfully proposed as amendments in committee last year.

Mr. Chairman, since as far back as 1963 exhaustive testimony on this legislation has been heard from all interested parties.

Under the leadership of two fair and able men—our former colleague, Jim Roosevelt, and the distinguished gentleman from Pennsylvania, JOHN DENT—great care was taken by the committee in drafting each section of the bill.

In my estimation, H.R. 13712 represents the best and most equitably legislative package that could be brought before you for consideration.

I particularly want to commend my friend JOHN DENT who, only a few short months ago, was appointed chairman of the subcommittee responsible for these amendments.

With the skill of a professional arbiter, he found the reasonable middle ground of many controversial sections of the legislation that finally prompted bipartisan support for the bill.

Mr. Chairman, two questions of major importance pose themselves:

First. Will the cost of these amendments create inflationary pressure?

Second. Will the cost of these amendments cause increased unemployment?

Each is a valid question which deserves an answer during these times of unsettled economic pressures.

Let me explain why each can be answered in the negative.

I should first state that these were grave concerns that I had during the consideration of last year's amendments.

And only with the modifications incorporated into H.R. 13712 have I concluded that we would face no unemployment or inflationary dangers.

As regards inflation, let me first point out that among the 29.6 million workers now covered by the minimum wage, only

12 percent of them are not receiving \$1.40 per hour.

That means that in 1967, when the statutory minimum reaches the \$1.40 level, the total wage bill increase will only be \$804 million.

And only 18 percent of those workers now covered are receiving less than \$1.60 per hour, which means in 1968 the total wages paid to these individuals will rise only 1.1 percent.

On the other hand, for those workers who are not presently covered by the act, the wage increase for 1967 would come to \$202 million.

Only 728,000 workers are not now receiving \$1 per hour which is about 0.9 percent of the workers who will be covered for the first time by the act.

There is no doubt that business can afford to absorb these increases.

The history of the 1961 amendments to the act is proof—the gross national product increased from \$503.8 billion in 1960 to an estimated \$665 billion in 1965.

Corporate profits before tax have increased from \$50.3 billion in 1961 to \$64.8 billion in 1964.

Income of unincorporated enterprises has increased from \$35.6 billion in 1961 to \$39.1 billion in 1964.

Quarterly reports indicate that these trends are continuing.

The business community will certainly be able to absorb the added cost without difficulty.

And these increases are within the wage guidelines set by the President.

Under the bill, the average annual wage increase in 1967 for those workers presently covered by the act and who do not now receive \$1.40 per hour would be 0.5 percent or about \$804 million.

At the \$1.60 per hour level in 1968, the percentage total increase would be 1.1 percent.

This results in an average increase over the 2-year period of 0.68 percent which is nowhere near the 3.2-percent guideline of the President.

In addition, it must be understood that the guideline of the President is based on the wage average of the entire Nation.

That is, the total wage paid to all workers.

We are attempting to raise only the wages of a minority of workers in a number of industries and when their wage hikes are averaged among all workers, the total percentage raise is relatively insignificant.

Perhaps the most marked impact of rising prices in the past several years has occurred among food products.

In the past year alone, food prices have increased about 6.5 percent.

As regards the impact of these amendments on the price of foods, I would point out that the Secretary of Labor states the cost of bringing the minimum wage up to \$1.25 per hour is approximately equal to 1 cent per unit for most fruits and vegetables.

And for those who mistrust the more liberal economists in the administration, I call your attention to the remarks of Milton Friedman, a University of Chicago professor.

Writing in a publication of the free

society entitled "The Minimum Wage—Who Pays?" Dr. Friedman states that he thinks "inflation is one of the most negligible economic effects of an increase in the minimum wage."

One overriding factor that I feel is important to a discussion of the inflationary impact of these amendments relates to the very purpose of bringing minimum wages to low-income workers.

With each rise in the cost of living, the real earnings of those at the very bottom of the economic ladder are diminished.

Whereas the average wages in the country have moved up with productivity, this has not been the case among the lowest income workers.

It is not the average that concerns us today.

We are attempting to reach the worker whose income has not kept up with the average.

In effect, when it is argued that we cannot afford the increase because of inflation, we are saying that the poor must bear the burden of the economic remedy.

We are saying to the poor: "Your wages must remain at subpoverty levels so that our bacon will not go up any more than the 45 percent it has over the past 5 years."

I say to you, that even if there were an important relationship between minimum wage increases and inflation, it is not the poor who should bear the burden of economic prevention.

Turning to unemployment, we must conclude from the testimony that an increase in the minimum wage does not have an adverse effect on this problem.

Unquestionably, if this bill were asking, as it did last year, an immoderate rise in the minimum rates, unemployment might result.

I raised the question last year and in fact I did not support last year's minimum wage provision of \$1.75 per hour for that very reason, among others.

We have a 28-year history against which to measure the effect of the Fair Labor Standards Act.

Clearly, it indicates that employment has increased in each year that amendments to the act were passed by Congress.

At the same time, unemployment has decreased.

More important, employment usually went up greatest among those workers directly affected by the act.

The record of the past 5 years indicates a continuation of this pattern.

Employment increased between 1961 and 1965 by about 8 million and unemployment dropped from 7 percent in May 1961 to 4.1 percent in December 1965.

During the same period, employment went up faster and further among teenage and unskilled workers who were most affected by the act.

In addition, it has been shown that increases in the minimum wage have not adversely affected business profits.

The earnings of workers in jobs directly affected by the 1961 amendments increased by 8 percent between 1961 and 1965.

The profits of their employers during the same period increased by 30 percent before taxes and by 40 percent after taxes.

In summary, Mr. Chairman, analyses of the amendments to the Fair Labor Standards Act of 1961 have turned up no indication that further extension of the act will have an adverse effect on the economic progress of those industries affected.

Mr. Chairman, the committee was told that in some areas, 84 cents an hour is the average wage paid to laundry workers.

Regardless of how little skill is required to process laundry, it is inconceivable to me that 84 cents represents the true value of an hour's work.

It is this inequity that we must correct and I therefore urge House passage of H.R. 13712.

Mr. Chairman, I include at this point the text of the letter from Arthur M. Okun, Acting Chairman of the President's Council of Economic Advisers, to the gentleman from Pennsylvania [Mr. DENT].

The letter is as follows:

MAY 19, 1966.

DEAR MR. DENT: This is written in answer to your request for our views on H.R. 13712, the Fair Labor Standards Amendments Act of 1966.

The President's Council of Economic Advisers believes that the enactment of H.R. 13712 will benefit the welfare of the Nation. The enactment of the bill will represent a major step in the process of eliminating substandard wages and working conditions, without imposing significant or abrupt cost increases on employers. Thus, the content of H.R. 13712 reconciles the goals of our social policy with the vital objectives of noninflationary prosperity for the American economy.

Providing the protection of the minimum wage to the American worker has been an important element in our national policy for almost 30 years. Underlying this policy has been the recognition that some segments of our labor markets work imperfectly and that many workers are at a disadvantage in bargaining with their employers. But in recent years, the protection has applied to a smaller proportion of private nonsupervisory workers than was the case in 1938, when the Fair Labor Standards Act was passed. *Moreover, the level of the minimum wage has not kept pace with our economic advances. The enactment of H.R. 13712 will rectify these developments.* The extension of the coverage of the Fair Labor Standards Act will bring for the first time the protection of the minimum wage to about 7 million workers in services, trade, and agriculture. And the increase in the minimum for those already covered by the FLSA will make an important contribution toward the elimination of labor conditions that are inconsistent with the rising standards of earnings that characterize the majority of the American labor force.

An important feature of H.R. 13712 is that its enactment will not hamper our policy designed to preserve stability of costs and prices. First, the provisions of the bill will become effective in two stages—February 1967 and February 1968; the timing makes possible a gradual adjustment without causing disruptive cost pressures.

Secondly, the minimum wage for the newly covered worker begins with a very modest figure of \$1.00 and rises gradually over a period of 4 years.

The minimum wage increase proposed by H.R. 13712 for those already covered by the FLSA reflects appropriate concern for the

standards of noninflationary behavior of wages. *As you know, the Council's wage guidepost provides for a specific exception in those cases "where wages are particularly low—that is, near the bottom of the economy's wage scales."* The wages of those actually affected by minimum wage protection obviously fall into this category of exceptions to the guidepost, and therefore should move up at a more rapid pace than the economy's productivity trend. Only then can our least advantaged workers move closer to the average standards of prosperity enjoyed by the Nation's labor force. When one considers the time span since the last increase in the minimum wage in 1963 and the timing of the increases scheduled by H.R. 13712, the rate of increase appears entirely reasonable for this particular type of exception to the guideposts.

In view of all these factors, the enactment of H.R. 13712 is essential and will make an important contribution to social and economic welfare.

Sincerely,

ARTHUR M. OKUN,
Acting Chairman.

HONORABLE JOHN H. DENT,
House of Representatives.
Washington, D.C.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. BELL. I yield to the gentleman from Kentucky.

Mr. PERKINS. First, let me commend my distinguished colleague on the House Committee on Education and Labor whom, to my way of thinking, is a dedicated public servant who has given his utmost in the writing of the legislation.

I think it should be pointed out that the provision covering those who are presently covered under the minimum wage law whose hourly rate would be raised from \$1.25 up to \$1.40 would not become effective until February 1, 1967, and the rate would not go up to \$1.60 until February 1, 1968. Is that correct?

Mr. BELL. That is correct, yes.

Mr. PERKINS. The provision relating to newly covered employees, nonfarm labor, which, as I recall, covers better than 6 million people who are not presently covered, on those newly covered it would not go up to \$1 an hour until February 1, 1967. Is that correct?

Mr. BELL. That is correct.

Mr. PERKINS. And then it would go up to \$1.15 effective February 1, 1968. Is that correct?

Mr. BELL. That is correct.

Mr. PERKINS. And \$1.30 effective February 1, 1969, on the newly covered, and \$1.45 effective February 1, 1970, and not up to \$1.60 until February 1, 1971; is that correct?

Mr. BELL. That is correct.

Mr. PERKINS. Again let me compliment the gentleman for such an outstanding job on this piece of legislation. I certainly was unsuccessful in getting provisions in the bill that I thought necessary, but the gentleman from California has done an outstanding job.

Mr. BELL. I thank the gentleman from Kentucky.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. BELL. I yield to my colleague from Pennsylvania.

Mr. DENT. Years ago when I was a member of the legislature in Pennsylvania, at one time a very fine fellow who

belonged to the Republican side and I got into a serious debate over a bill which was before us. At that time I was a little louder and a little more apt to lose my temper. I am more mellow now. Age does that.

I walked up to the gentleman and I said, "It is only because we have different principles that we disagree." He said, "You are wrong. It is only because we have different districts that we disagree."

I am of the firm opinion, after working with the gentleman, my cosponsor from California, that no matter what kind of a district he lived in he would do the kind of work he has done on this bill. He has been one of the greatest workers we have had on our committee. He has helped on every occasion. When he has disagreed he has never been disagreeable. I believe that is the greatest compliment that I can pay to the gentleman.

Mr. BELL. I thank the gentleman.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. BELL. I yield to the gentleman from California.

Mr. BURTON of California. I should like to join the chairman of the subcommittee in commending my distinguished colleague, the gentleman from California [Mr. BELL]. His efforts and diligence and contribution to this bill have been most remarkable. At all times he has sought constructively to resolve the differences which existed among the various members of the subcommittee and of the full committee.

I heartily commend the gentleman for his most effective contribution to this very important piece of legislation.

Mr. BELL. I thank the gentleman.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. BELL. I yield to my colleague from North Dakota.

Mr. ANDREWS of North Dakota. I, too, should like to join in the praise being heaped upon the shoulders of my colleague, the gentleman from California [Mr. BELL].

(Mr. ANDREWS of North Dakota asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS of North Dakota. Mr. Chairman, I want to make absolutely clear cut the intent of Congress as far as the application of this act to automobile dealers and commission employees such as salesmen, mechanics, and partsmen who work for automobile dealerships.

The need for an exemption from overtime as to salesmen, mechanics, and partsmen arises out of the traditional commission pay basis for these employees. It is impossible to successfully work these employees on a schedule basis because their ability to earn commissions depends on their availability when sales can be made or repairs are needed. In other words, the employer has no control over the customers' needs and cannot anticipate and schedule working hours as in most other industries.

In the statutory language of the new section 13(b)(10), salesmen, mechanics, or partsmen are exempt if employed by an establishment primarily engaged

in the business of selling automobiles, trucks, and farm implements. The Education and Labor Committee report states that the exemption is intended to apply to these employees even if they work in a physically separate building or area so long as they are employed in a department which is functionally operated as a part of the dealership—section 209, page 42, report 1366, Committee on Education and Labor.

This intent is of extreme importance to many dealers, since larger dealerships necessarily occupy many buildings separated by streets or alleyways, and so forth. Currently the Wage and Hour and Public Contracts Divisions in the enforcement of the Fair Labor Standards Act, takes the position that any physically separate building is a separate establishment. Thus, it is important to the dealers to have clear congressional history expressing the intent to be contrary to the Division's current enforcement policy.

It is my understanding that the drafters of the amendment do not intend the new section 13(b)(10) exemption would be limited only to those commissioned salesmen, mechanics, and parts men employed by retail dealers. Therefore, it would seem to me we should make a little congressional history to clarify this important point to the larger volume dealers who do not meet the "retail" test of the Wage and Hour Division.

I think it would be helpful to strengthen the intent of Congress that the amendment exempt salesmen, mechanics and parts men employed by dealerships even if they work in physically separate buildings, provided that the majority of the business of the employer is retail, as stated by the House Education and Labor Committee.

Also, it is probably of greater importance that section 13(a)(2) apply to farm implement and automobile dealers, regardless of whether they meet the present retail test.

May I have the assurance of my friend now in the well that this is a correct interpretation of the language to which I refer?

Mr. BELL. It is my understanding that those employees would be exempt from the overtime feature of the minimum wage.

Mr. ANDREWS of North Dakota. So long as they are earning commissions.

Would the gentleman from Pennsylvania care to comment on that?

Mr. DENT. If I am not mistaken, we believe we have covered that in section 209, which relates to automobile, aircraft, and farm implement sales establishments, under the explanation we give on page 42 of the report.

However, if the gentleman has any fear about the situation, and if I understand his lengthy statement completely, I can assure him that I agree with him that the interpretation he has put on the language is correct.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield to me again on this point?

Mr. BELL. I yield to the gentleman from California.

Mr. BURTON of California. Would the gentleman restate what he has in mind, so that the RECORD can be clear?

I am not sure whether you added some surplusage in what you said that might lead to some confusion and misunderstanding.

Mr. ANDREWS of North Dakota. Will the gentleman from California yield further?

Mr. BELL. I yield to the gentleman.

Mr. ANDREWS of North Dakota. I have a copy of my remarks in the hands of the subcommittee chairman and the staff on your side of the aisle and also in the hands of our staff over on this side. I think we have gotten close to the nub of this in the report on the bill. I just wanted to nail it down very definitely, because I have two or three automobile dealers in my district who are concerned. I want to make sure that the intent of Congress is that those who are primarily retail dealers engaged in selling Ford and Chevrolet automobiles have this exemption for their commission employees such as parts men and salesmen and mechanics.

Mr. BURTON of California. As I understand it, the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. DENT], is looking at the language which you read, and I assume he will be responsive in due course.

Mr. ANDREWS of North Dakota. I think the chairman of the subcommittee has already responded. Is that not true?

Mr. DENT. The answer is still yes as far as I can tell.

Mr. ANDREWS of North Dakota. I appreciate very much the clarification of the chairman of the subcommittee, and I thank the gentleman in the well, the gentleman from California [Mr. BELL], for yielding.

Mr. BELL. For clarification purposes, I would like to add also that the minority leader of the full committee and the chairman did indicate they felt some of us should mention our amendments that are coming up so we can keep them in mind. I have an amendment that I expect to offer tomorrow at the proper time which pertains to the overtime exemption for agricultural processing. If you will note in the bill on page 41, it refers to "highly perishable" at the top of the page. It is my intention to remove the word "highly" from the phrase "highly perishable." I have been in conference with a number of people involved in this industry representing various viewpoints and I find that the phrase "highly perishable" seems to concern many and confuse the issue. It adds to the confusion, and it is my intention to strike the word "highly." I think it will be satisfactory to most of the people in the industry including labor and management.

Mr. DENT. Mr. Chairman, I yield 10 minutes to the gentleman from New York, [Mr. RESNICK].

Mr. RESNICK. Mr. Chairman, I rise in support of H.R. 13712, amending the Fair Labor Standards Act of 1938 to extend coverage to additional employees, to raise the minimum wage, and generally improve the lot of the American worker.

I am, of course, interested in all the

bill's aspects, and in the beneficial effects I expect it to have upon our economy and society. I am particularly concerned, however, with the section of the bill dealing with agriculture and the farm worker.

My State of New York and my district, the 28th of New York, are among the Nation's leading agricultural areas. Although the average citizen is inclined to think of New York in terms of great cities, business centers and commercial affairs, New York is the northeast's principal agricultural State. It ranks among the top five States in the Nation in the production of dairy and milk products; in vegetable production, and in fruits; particularly apples. We are the proud possessors of a rapidly increasing beef industry, producing for both slaughter and breeding. Payrolls for an estimated 67,000 farms in the State amount to nearly \$100 million each year.

Yet, the agricultural picture in New York State is not as bright as our prolific production would make it appear. For production statistics do not point up the harsh facts of life for the farmworker. Statistics do not show that the farmworker has no unemployment compensation coverage, hospitalization, or that the gap between industrial wages and farm wages is constantly widening, or in fact, that in certain areas of my State farmers must let their crops wither in the field for lack of workers—workers who have moved to the factory. Why should a man continue as a farmworker, exposed to all the extremes of weather and climate, when he can go to work in a factory, in a nearby overcrowded city, and receive all the fringe benefits visited on the industrial employee—and at two or three times the hourly wage on a farm.

There are some statistics which reveal the seriousness of this situation. In 1960, in New York State, an industrial worker could purchase a pound of pork, or a loaf of bread, or a dozen eggs with roughly half the working time of his agricultural counterpart. In 1965, a scant 5 years later, the situation had not improved, but had grown worse. Today the agricultural worker must work more than twice the time of the industrial worker to purchase the same staples for himself and his family.

In the dairy industry, New York's largest agricultural industry, the number of herds and cattle has been depleted alarmingly. I have here some excerpts from the classified pages of two of our area newspapers, the Poughkeepsie Journal and the Hudson Register-Star. Here in the heartland of New York's dairy operations our good farmers cannot get the farm help they so desperately need. The pages of the newspapers, which I am inserting at this point, tell the story. "Help wanted on dairy farm," is the request which most often goes unheeded. And, on the same page an announcement of a public dairy auction as still another farmer is compelled to leave the land.

It is as follows:

[From the Hudson (N.Y.) Register-Star, May 4, 1966]

Wanted—Married Man on Dairy Farm. Must live in 2-bedroom trailer. Clinton Balner, Phone 329-6211.

Working Herdsman Wanted for 80 cow Holstein Dairy. Excellent living conditions, oil heat, heated garage, located ½ mile from village, churches, and schools. Paid vacations, salary \$400. Please write stating Age, family, experience and references in 1st letter. All Replies confidential to

ROBERT J. KELLER.

DOVER PLAINS, N.Y.

HELP WANTED—MALE

Wanted—Dairy Farm Helper. Good pay and accommodations. Call FA 5-6591 after 6 o' clock.

Wanted—Reliable, married man with small family, good habits for general farm work. Must be good milker, and understand tractors. Good salary and privileges. References required. J. M. Kaplan & Son, Inc. Millerton, N. Y. Phone (914) 789-4600 or 789-4646.

Wanted—Married man to work on dairy farm, must know how to milk and help in some field work. House and privileges. Red Hook area, Alfred Lasher. Phone PL 6-5474, Area Code. 914.

Experienced man wanted on dairy farm. House, good salary and privileges. Also Day help wanted. Call TL 1-6786.

Wanted—Married man on dairy farm. Must be experienced, and dependable. House and privileges. Top wages. Call TL 1-6679.

[From the Poughkeepsie Journal, May 22, 1966]

Wanted experienced dairy farmer, top pay and good working conditions, modern housing. Call evenings after 6 or weekdays 398-7207.

Wanted—Married man on dairy farm.

Married man for modern dairy farm. Must be good milker. Good house, good wages. Usual privileges. Old Summit Farm, Millerton, N.Y. 789-4918.

Farm hand—To work by day. Steady employment. Apply: Coon Bros. Farm, Smithfield, Amenia, 373-8335.

Farm help required—General labor. Must have valid driver's license. Sober, honest, alert. Reply stating age and references to P.O. Box 71, Rhinebeck, N.Y.

Married man to work on dairy farm. Must know how to milk and help in some field work. House and privileges. Red Hook area. Alfred Lasher, RD-1, Tivoli, N.Y.

Experienced Married Man—Small family on dairy farm. Good house and privileges. Clark H. Benson, 373-9014.

COMPLETE DAIRY HERDS DISPERSAL

The undersigned discontinuing Farming has authorized the Sale at Auction of all Cattle. Sale to be held at the Farm known as the James F. Murphy farm, located on De Lavergne Hill, Route 44 at Amenia, Dutchess County, New York.

Two days: Wednesday May 18 and Friday May 20, 1966.

Selling Wednesday May 18, 1966, 10:30 a.m., Rain or Shine, 100—Head of hy grade dairy cattle—100.

This is the entire Herd of the Home Farm. Cattle consist of: over 60 heifers milking with their First Calf and bred back for August, September, and October. 32 cows milking with 2nd and 3rd Calf and bred back for Fall. All tests were clean. 92 cows producing 3900 to 4100 lbs daily. This entire Dairy are Holsteins, good size, good type and in

good flesh. Feel free to inspect this herd prior to Sale. 1 Holstein service bull 18 months old. 7 Heifers of breeding age open. All were raised on the Farm.

Friday, May 20, 1966.

DAIRY FARM DISPERSAL

The undersigned having sold his farm has authorized the Sale at Auction of his entire Dairy together with Farm Machinery, and Equipment. Sale to be held on the Farm known as the I. D. Williams Farm, located on Sunset Hill Road, 1¼ miles from Route 58 at Redding, Conn., and 4 miles south of Bethel, Conn. Auction arrows posted Day of Sale.

Saturday, May 21, 1966: 11 a.m., rain or shine—43 head of hy grade dairy cattle—43.

All home raised with exception of three, all Vaccinated and all tests are within 30 days and are eligible for interstate shipment. All animals raised are from the good Sires in C.A.B. Herd producing daily over 1100 lbs. from 21 cows that are milking, fat test 3.7 and 3.8%. The entire herd are Holstein with exception of 3 colored cows. Cattle consist of: 7 cows due in June, 6 cows freshened in March and April, 6 cows bred for July, 4 cows bred for August, 1 cow for September, 2 cows bred for December, 2 cows bred back for January, 4 cows freshened in February, 4 heifers bred to freshen June and July, 2 open heifers of breeding age, 1 heifer 8 months old, 2 heifer calves 3 months old. These cattle have size, type, in good flesh. Feel free to inspect herd prior to Sale and see them milked. 10 of this herd are milking with their first calf, and are bred back to freshen with their second calf.

TRACTORS—FARM MACHINERY AND EQUIPMENT

J.D. Model A tractor in good order, Super C tractor in good order, 1950 G.M.C. pickup truck, Harvey 28 foot elevator and motor, Int. 2 bottom plows on rubber, Int. double disc, bog harrow, 3 section spike tooth harrow, Cunningham hay conditioner, land roller, long frame trailer, 1940 Ford platform truck, lime spreader, hay tedder, 2 disc plows, 2 wood shod sleights, 2 sets bob sleights, several antique plows and cultivators, 40 steel stanchions, and partitions, water buckets, vacuum line, Universal 7 unit milker pump and motor, Patz barn cleaner for 44 cows, elevator complete with corners and plates, 3 Universal milkers, stainless double wash tub, 30 gal. hot water heater, barn fan and stand. Hydraulic loader for Super C tractor, App. 175 yards of rotted cow manure.

Terms: Cash or good checks day of Sale. Sale Order: 11:00 a.m. Farm Machinery, 1:00 p.m. Cattle.

Phone Amenia, N.Y. 914-373-8171.

Sale by order of: I. D. Williams (owner), Redding, Conn.

D. Luther, Auctioneer and Sales Mgr., Wassala, N.Y.

Yet, this is not a time of depression when the demand for the farmer's goods is nonexistent. In fact, demand for dairy products is at a record level. We don't have enough milk or butter to meet the demands of the American public and the consumers abroad to whom we export.

The conclusion I draw, and the conclusion drawn also by the farmers of the 28th District, many of whom remember that I was born and raised on a farm, is that covering agricultural workers with the same minimum wage benefits enjoyed by the great preponderance of American workers, can only help correct this dangerous situation.

Opponents of the measures which we consider today point to the complexity of the issues. The issues are complex, yes, but farm wages are not divinely ordained.

We have the power to act and help solve the problems of the farmworker. We must, I think keep in mind that the section of this bill dealing with agricultural labor is only a beginning.

We are not, for example, talking about the state of the migrant worker, the bracero, or the seasonal hand picker of this Nation's fruits and vegetables, paid by the pound or the bunch or the peck. But the differences between the migrant worker and the farmhand are differences of degree, not kind. The problems which beset one beset the other. What we are really calling for in the section of this proposal dealing with agricultural workers is a new set of attitudes toward those who work our farms. Men, when offered a choice, prefer not to work in those jobs which are looked down upon, and jobs which pay the least—in material and status benefits—are those which are looked down upon.

The great social movement which is afoot in this Nation, which has found expression in the passage of civil rights legislation, medical care legislation and in fact the entirety of efforts toward the achievement of the Great Society, is frustrated and halted in the person of this large group of Americans denied the small benefits of a minimum wage in which nearly all their fellow workers share. The passage of this legislation before us today is a start. As we here in this great House move closer to or further from the realization of an adequate existence for all Americans, we set patterns of action with which future generations must deal. We can do this in many ways. We can act positively, thereby setting the precedent for further action when such is both prudent and needed: or, we can act negatively, removing the hard-won concessions of the historically deprived in American society, or we can do what is perhaps the worst thing of all, we can do nothing. We can postpone the necessary remedial measures time and time again. Just as they have been postponed to date: and we can guarantee that in this way they not be enacted until it is too late. For of all the patterns of action, the hardest to repair is the pattern of inactivity. I say this today because it may well become too late and we may grow to regret any action but the positive.

The group dealing with the problems of the migrant worker in my home county, Ulster County, have noted in their report the support given them by local church groups. I would like to note at this point that church groups have been among the most responsive to the needs of the agricultural worker, and no less a spokesman for the Protestant denominations of this country than the National Council of Churches has voiced its approval of the measure we are here discussing. It is proper, I think, therefore, to commend these and other church groups for their wisdom and hard work on behalf of the agricultural workers. What advocates of the proposal are working toward, is the day when the agricultural worker may be both proud and prosperous.

It has been said in opposition to this provision of H.R. 13712, that the coverage of agricultural workers will have ad-

verse effects upon the economy and upon the welfare of the farmer. The relationship between wages and total costs in agriculture is something like 7 percent. Therefore, if the increase in farm wages was added to the cost of the consumer's purchase, the price rise would be moderate indeed. Yet, there is no denying that there will be some increase in cost. The question is, I think, Do we want to pay this small cost now or the much greater costs which will accrue if we do not act? There is an old saying about an ounce of prevention is worth a pound of cure. Our forefathers know that the ounce of protection, was preferable. I do not think that we have forgotten this wisdom.

Opponents of the bill say that the farmer cannot afford to pay the minimum wage, that he will be forced off his land if he is made to pay a decent wage. Well, this is not what the good farmers of the 28th Congressional District are saying. This is not what the 1,100 farmers forced out of the business in the past few years in the 28th District are saying at all. The Millerton, N.Y., News, a fine newspaper serving our dairy farming area said in its editorial of April 15:

We don't think keeping hired farm wages low is going to help the farmer a great deal, because we don't think responsible help can be hired for small money.

For example, let us look at the dairy industry.

Why is the price of milk and butter going up? Simply because there is not enough milk to go around. Production is falling at a rate that threatens to become a national scandal. If something is not done soon we will see a black market in dairy products. The production of milk in the month of April 1966 dropped 4 percent under April 1965, and was the smallest production since 1953; also, in the month of March 1966 production was 7 percent under March 1965.

In 1964 the average dairy farmer in the State of New York earned 65 cents an hour. Is it any wonder that dairy farmers are leaving their barns and moving into the factories? This is not Russia. We cannot force people to remain in our agricultural economy by fiat. We must permit the farmer to earn a decent living and the farmer cannot earn a decent living for himself when he faces competition from farmers in other parts of the country that pay substandard starvation wages. I for one, cannot understand how a poultry farmer in New York State who has to pay \$1.25 to \$1.50 an hour if he is to get any help at all, can be expected to compete with a poultry farmer in Mississippi who is paying virtual slave wages of \$3 for a 10-hour day for semi-skilled workers such as tractor drivers and only \$6 a day for highly skilled mechanics who can repair complex equipment such as cotton pickers and tractors. In New York a skilled mechanic costs the farmer \$6 an hour.

The large producers who are affected by H.R. 13712 are among our most prosperous farmers. They can best afford payment of a reasonable minimum wage, and in so doing they would be brought

back into competition with the smaller farmer who has been forced to the wall by low farm wages and income.

Today, as we discuss this measure, there is a new urgency which all of us may not have considered. Advocates and opposition to this bill alike, agree on one of the trends currently afflicting the agricultural sector of the economy; that farmers are declining in number across the land and in all types of production. In 1949 the farm population of this Nation numbered 24,194,000 or about 16.3 percent of the total population. Today there are only about half that number still in farming, and only about 6.5 percent of the population. This phenomenon of the census is well known. The transition of this Nation from a rural, farming population to an urban industrial society is well documented. To date, however, there has been no mention of the danger this may represent.

In the late fifties and early sixties we could speak, in the same breath of the declining farm population and the increasing productivity of the Nation's farms. In 1961, for example, harvested wheat acreage had declined from a level of 75,910,000 acres in 1949 to 51,551,000. At the same time wheat production had increased from 1,006,565,000 bushels to 1,234,743,000 bushels; nearly 200 million additional bushels. The proof of the pudding, so to speak, were the surpluses of wheat and other foods which sat idle in warehouses and storage sites all over the Nation. In the same year mentioned, 1961, there were 1,411,178,000 bushels of wheat labeled surplus. Or nearly 200 million more bushels of surplus than were produced during the year. Today this is all history. In the intervening years changes of vast proportion have taken place. Unfortunately, some of the men dealing with the problems confronting the farmer in 1966 seem unaware of those changes.

You can pick any crop produced in the United States today, be it wheat, rice, dairy products, soy beans, any crop. The story is the same. Production has increased more or less in all fields, but the surpluses of a decade ago are no more. Rice provides a good example. The United States has no rice surplus while a decade ago the surplus was around 11,338 hundredweight. Why is this the case? The answer is simple. On the one hand we know about the increases in domestic consumption of our foods based upon population and income increases. But this is only about two-fifths of the story, because that is about the fraction of our production used here at home. The remaining three-fifths, is exported for consumption abroad. If our programs of export were simply based upon selling that part of our crops not consumed domestically, that would be one thing. But the world has come to depend upon the abundance of American farmers for the largest portion of its food supply. Our programs of assistance, based upon simple human compassion, have served to feed the world and to deplete our once vast reserves of food. In addition, as our foreign aid programs have become successful, the standards of

living of our friends abroad have increased so that today many nations turn to the United States to purchase their food supplies from us with dollars. Japan for example, once a recipient of our foreign aid and generosity, today is the largest purchaser of American agricultural products such as meats, fruits, and cereals, and they pay in dollars.

In all crops the picture is the same. In the 10-year period 1956-66, exports have increased in almost perfectly inverse proportion to our carryover stocks, our so-called surpluses.

In short our surpluses are gone. We have 6 months supply of wheat before the next crop, some feed grains and that is it. Gone are the caves full of butter, cheese, and dried milk. There is no rice or soybeans to spare. Were the United States to be hit with a drought of major proportions there would be hungry people all over the world even here in America.

Another factor at work during this period is the decrease in farm acreage, which deserves some additional comment.

In 1956 America's total harvested acreage was 89,595,000 acres, including all commodities. In 1964—the last year in which complete statistics are available from the Department of Agriculture—there were 66,909,000 acres harvested. A decline of nearly 8½ million acres. Now, some part of that acreage was retired voluntarily by farmers in conjunction with USDA programs. Other acreage was converted from farmland to other purposes, which is unclaimable for farming. We cannot tear down the highways and housing developments, the shopping centers, the bowling alleys which have been built on once fertile farmland.

All this assumes importance only if we agree that increased production is becoming a matter of some concern. According to authorities in the Department of Agriculture, the less developed nations cannot be expected to begin meeting their own food needs in the foreseeable future. We are all aware of the difficulties that arise when drought strikes and causes famine in such a large nation as India. And I think most of us must realize that even such mighty nations, such as Russia and China, cannot feed themselves, and were it not for the food production of the Western World, they would be starving today. We have committed ourselves to help feed the people of the world; friend and foe alike in the past, and I believe we will continue to do so in the future. The commitments, both formal and moral, which we have to aid these nations and these people, demand that we do everything possible. If our actual stored reserves are depleted, there are still the reserves of land. Land never cultivated and land cultivated and retired, but still available for farming. These can, when the situation warrants, be brought back into cultivation. They are the world's last major hope if man is not to face starvation in our lifetime. In fact, we are not even producing enough to meet the demands upon us today. We could produce and export more rice, more wheat, more dairy products for dollars.

The skeptic may insist that technology will take care of everything. That mechanization, automation, chemistry, and the biological sciences will provide the answers. But I do not think so. I think that our dwindling farm population presents a threat to the world second only to atomic warfare. An acre of land can only grow so much wheat, or rice. A dairy cow can only produce so much milk. We may not have reached the limits of efficient farming yet, but we are coming close to reaching them. There must unavoidably come a day when the equation of skilled farm personnel, using the best techniques and all the available land does not produce enough. But that day might be tomorrow, unless there are skilled farmers and farmworkers around. And, if present trends continue unabated, they simply will not be there.

We must begin reversing these trends now. We must make farming a respectable and profitable business for more than just the few. We must begin to provide the labor pool of proud, well paid farmworkers who will man all the farms, drive the equipment, use all the newest techniques. We must begin these things today while there is still time. And, I respectfully submit that the beginning of all these things can be found in the passage of H.R. 13712, to amend the Fair Labor Standards Act, to include this Nation's farmworkers under a minimum wage.

Mr. Chairman, in conclusion I want to say I have a very special interest in this today. I am a manufacturer and I make a great many products. But I cannot sell anything to anybody who earns \$1 an hour and I can sell very little to anybody who makes \$1.40 an hour.

I wholeheartedly support this bill with the reservation that it does not go far enough or fast enough. I think while we should be grateful for the provisions that the subcommittee wrote, and we must act upon them now. In the future we will need to do more, but we must do this now or there will be no future.

(Mr. RESNICK asked and was given permission to revise and extend his remarks.)

Mr. O'NEILL of Massachusetts. Mr. Chairman, will the gentleman from Pennsylvania [Mr. DENT] yield?

Mr. DENT. I yield to the gentleman.

Mr. O'NEILL of Massachusetts. Mr. Chairman, I am sure the gentleman from Pennsylvania will recall the colloquy in the Committee on Rules when this bill was before us.

At that time I said there was a change in the bill from the original bill which was filed and reported by your committee when the gentleman from California, Mr. Roosevelt, was chairman.

I am referring to page 8, lines 9 to 16 of the bill as it was before the Rules Committee. Does this retain the existing exemption for amusement or recreational establishments, such as amusement parks, sports events, parimutuel racing, sport boating or fishing and similar activities, so long as such establishments meet one of the seasonal definitions set out in lines 11 to 16?

In the Committee on Rules you told me that that was correct and it was agreed that we would spell it out in the RECORD here at this time and further that you were going to check on this with the Department of Labor.

Mr. DENT. I have checked with the Department of Labor. The answer I gave to the gentleman in the Committee on Rules still holds.

Mr. O'NEILL of Massachusetts. Would the gentleman explain the answer for the purposes of the RECORD at this time?

Mr. DENT. There is an exemption if they meet one of the seasonal criteria now contained in the bill on page 36.

Mr. O'NEILL of Massachusetts. I thank the gentleman.

Mr. BELL. Mr. Chairman, I yield such time as she may desire to the gentlewoman from Washington [Mrs. MAY].

(Mrs. MAY asked and was given permission to revise and extend her remarks.)

[Mrs. MAY addressed the Committee. Her remarks will appear hereafter in the Appendix.]

Mr. BELL. Mr. Chairman, I yield such time as he may desire to the gentleman from New Jersey [Mr. FRELINGHUYSEN].

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman from California.

Mr. Chairman, I have a brief question about the coverage of the bill.

It is my understanding that under title II of this bill, the provisions of the act pertaining to both the minimum wage and overtime protection will be extended to certain industries including the laundry and dry cleaning industry.

Am I correct in my understanding that the removal of the laundry exemption would have no effect on the present exemption of outside salesmen in the industry?

Mr. BELL. That is my understanding. That is correct.

Mr. FRELINGHUYSEN. I thank the gentleman.

Mr. BELL. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. GOODELL].

(Mr. GOODELL asked and was given permission to revise and extend his remarks.)

Mr. GOODELL. Mr. Chairman, let me first indicate that when the time comes to read the bill, I will offer several amendments, I will support several other amendments, but I intend to vote for the legislation, whether these amendments pass or not. I believe we have made significant improvements in the proposal since it came out of the committee last fall, and I believe on the whole it is a good piece of legislation.

Let me first say that there are questions under this legislation that need clarification. First, we are including for the first time tipped employees, particularly in industries such as motels, hotels, and restaurants. Tipped employees present unique problems. In the past we have excluded virtually all tipped em-

ployees, partly because we have no fair and simple way of covering them. Under the present proposal tipped employees will be credited in part if there is proof that they actually receive the tips. If the employees actually receive the tips, the employer can credit up to 35 percent of the minimum wage the first year. This means that, with the minimum wage for restaurant, hotel, and motel workers starting at \$1, employees can be credited with 35 cents worth of tips if they receive 35 cents worth of tips per hour.

However, if an employee should clearly receive \$1 or \$1.50 an hour in tips, the full amount could not be credited. The maximum that could be credited is 35 cents an hour.

I believe this is an unfair situation. We provide in the bill that the employee can appeal if he does not actually receive 35 cents an hour in tips, but we do not provide that the employer can appeal if the employee receives a great deal more than 35 cents an hour in tips.

I will offer an amendment which will provide credit of tips received, provided the employer can show to the satisfaction of the Secretary the actual amount of tips received. Obviously, if these tips, combined with whatever wage is paid, exceed the minimum, this would meet the requirements of the act.

Another amendment that I shall offer will attempt to meet a very peculiar and unique problem of the seasonal processors. For years and years we have had the overtime exemption from the law with reference to seasonal processors. There are a great many of these that are small operators who process multiple commodities, one after another.

For example, they start processing peas in New York State on June 20, or so, and move into cherries, green beans, carrots, beets, corn, tomatoes, then apples and grapes when you get near the frost season, up until the frost season. This means that many small processors will be steadily receiving different commodities on which they will have a premium requirement of speed, with peak days and peak weeks for labor.

The exemption in the present law is designed to meet this particular problem.

It is very clear, looking at the situations that exist in the various States, that this is not a single region or a single State problem. It pervades the whole country and the whole industry as far as processing is concerned. I think it needs no particular emphasis that significant crops must be processed within hours after harvest.

Some people have said that because we have mechanical harvesting equipment this makes the problem of perishable commodities much easier. Unfortunately, no matter how we harvest the commodity, it still must be canned or frozen within hours of the harvesting. Any attempt to hold these crops, by either bulk freezing or cold storage, or a variety of chemical treatments, results in additional processing costs which will, of

course, mean increased prices of products.

In most instances the attempt to hold off the canning and processing period ends up with the loss of quality, texture, flavor, and nutrients, as well as waste.

All of this means that in the processing industry they must move quickly. They must use overtime labor in short peak periods with each commodity. I intend to offer an amendment to try to modify this situation and meet the problem.

The present law permits two 14-week exemptions, one of them with 12 hours per day and 56 hours per week ceilings. The other one is unlimited. I will seek to restore, at least in part, these exemptions.

If I might, I would like to have the attention for just a moment of the gentleman from Pennsylvania. I had discussed several matters with him. These are matters of legislative history that I think we should make clear here today for the guidance of those who administer this act.

First, where an employer provides board—including meals—lodging or other facilities, there has been a question whether the value of these could be credited as part of an employee's wage. At various times the question has been raised as to whether board and lodging provided at the convenience of the employer was a part of wage or not. I have before me a letter, addressed to another party, dated April 27, 1966, from the Department of Labor, the Wage and Hour and Public Contracts Division, signed by Mr. Clarence T. Lundquist, the Administrator, which I include at this point:

This is in reply to your letter of April 9, 1966, to Secretary of Labor Wirtz concerning the allowance for meals in the definition of "wage" under section 3(m) of the Fair Labor Standards Act as it would apply to restaurant workers if H.R. 13712 is enacted.

The reasonable cost to an employer of board (including meals), lodging, and other facilities furnished to his employees is presently included as part of the minimum wage if the employer customarily furnishes them to his employees, when the inclusion of such facilities as part of wages is not prohibited by the terms of a bona fide collective bargaining agreement. The inclusion in wages of "other facilities" is authorized only if it can be determined that such facilities are not primarily for the benefit or convenience of the employer. Your letter indicates you have been misinformed as to the Department's position on board and lodging. *We do not in any case consider an employee's meals customarily furnished by an employer to be primarily for the benefit of the employer.* Our position is in accord with *Southern Pacific Company v. Joint Council*, 165 F. 2d 26, and cases cited therein. The kinds of facilities which have been found to be "primarily for the benefit or convenience of the employer" include such items as tools of the trade and other materials and services incidental to carrying on the employer's business, the cost of any construction by and for the employer, and the cost of uniforms and of their laundering, where the nature of the business requires the employee to wear a uniform.

In lieu of this method of measuring costs, the Secretary of Labor is authorized to determine the fair value of board, lodging, and other facilities for defined classes of workers in defined areas based on average cost to the

employer or groups of employers, or on average value to groups of employees or on other appropriate measures of fair value. These methods of crediting meals in the minimum wage would be applicable to newly covered restaurant workers if H.R. 13712 is enacted. We are enclosing Part 531 of the Code of Federal Regulations—Determinations under and Interpretations of Section 3(m) of the Fair Labor Standards Act—for your information.

Sincerely yours,

I would emphasize the Administrator is saying that in no case does he consider the question of whether meals or lodging are provided primarily for the benefit of the employer, and he does give credit for these as part of the wage, to be applied toward the minimum wage.

I would ask the gentleman from Pennsylvania, as a matter of legislative history, if he agrees with the interpretations of the Administrator and the statements I have made with reference to these problems.

Mr. DENT. Yes; and the bill does not change the present considerations for such items. Wages are declared to include the reasonable cost to the employer of furnishing such employees with board, lodging and other facilities, and covering the entire matter that was discussed by the gentleman on the floor. That is part of the law as it is now. We are making no change.

Mr. GOODELL. I agree with the gentleman.

I assume the gentleman from California [Mr. BELL], the ranking minority member of the subcommittee, also agrees with this interpretation.

Mr. BELL. I concur.

Mr. GOODELL. Mr. Chairman, there is one other major point which I believe requires some discussion and clarification.

When gratuities are compulsory, when they are imposed by an employer as a compulsory service charge, the Internal Revenue Service has ruled that the amount distributed to the employees is wages, not tips. I shall, at the appropriate time, place the Internal Revenue Service rulings to this effect in the RECORD.

These rulings were made with reference to the question of how much contribution of tax was due from the employer and the employee in these instances.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. BELL. Mr. Chairman, I yield 5 additional minutes to the gentleman from New York.

Mr. GOODELL. Mr. Chairman, I should like to give two or three specific examples in which the Service made these rulings.

I read from section 3121, "Definitions":

SECTION 3112.—DEFINITIONS [FEDERAL INSURANCE CONTRIBUTIONS ACT]

Rev. Rul. 66-74: "So-called 'gratuities' collected by a club through mandatory charges added to its members' bills are service charges, rather than tips, for Federal employment tax purposes."

Advice has been requested whether amounts which a club collects through mandatory charges added to its members' bills and which it subsequently disburses to its

employees with their wages may be treated by the club as tips for purposes of the Federal Insurance Contributions Act and the Collection of Income Tax at Source on Wages (chapters 21 and 24, respectively, subtitle C, Internal Revenue Code of 1954).

The club in the instant case operates on a charge basis only and does not permit direct tipping. Its members are billed for services, and mandatory "gratuities" are added. The "gratuities" are then disbursed with the employees' wages. The club has in the past treated the "gratuities" as service charges subject to all the Federal employment taxes, including income tax withholding. The question presented requires a determination under the provisions of the Internal Revenue Code as amended by section 313 of the Social Security Amendments of 1965 (Public Law 89-97, July 30, 1965, I.R.B. 1965-42, 9, at page 15), whether the club may now treat the "gratuities" as tips, and whether the club is thus relieved from liability for the employer taxes imposed by the Federal Insurance Contributions Act.

The Internal Revenue Service has consistently differentiated tips or gratuities paid directly and voluntarily to an employee by a customer of the employer from so-called "gratuities" which actually are mandatory charges added to a customer's bill. Under rulings heretofore published, a mandatory charge added to a bill is not a tip or gratuity.

In S.S.T. 145, C.B. 1937-1, 443, the Service held that where a club does not permit the tipping of employees but in lieu thereof adds 10 percent to the cafe charges against its members' accounts and disburses the added amounts monthly to the club's waiters, the sums so disbursed are wages. The addition of the 10 percent is an arbitrary charge set by the club which the member must pay. The amount is clearly, therefore, not a gratuity.

In Revenue Ruling 57-397, C.B. 1957-2, 628, the Service held that amounts which customers are required to pay to a hotel as service charges for using the hotel's dining facilities and which the hotel later disburses to its waiters and other employees are wages for Federal employment tax purposes. The customer has no choice in the matter, and for that reason the amount is not a tip or gratuity.

In Revenue Ruling 59-252, C.B. 1959-2, 215, the Service amplified Revenue Ruling 57-397 to state that where negotiations between a hotel and a customer for the use of the hotel's banquet facilities are not restricted to the cost of meals and beverages but also include or contemplate additional amounts for distribution to employees of the hotel, then the amounts so distributed are not tips or gratuities but are wages for Federal employment tax purposes, including income tax withholding. The Revenue Ruling stated further:

"To constitute a 'tip' in the commonly accepted meaning of the term, it is inherent in the nature thereof that certain fundamental characteristics be present. It must be presented by the customer free from compulsion; he must have the unrestricted right to determine the amount thereof; and such amount should not be the subject of negotiation or dictated by employer policy. Generally, the customer has the right to determine precisely who shall be the recipient of his generosity. The absence of any of these factors creates a serious doubt as to whether the payment is really a tip and indicates that it is in fact a service charge for the use of certain facilities."

Tips or gratuities paid before 1966 directly to an employee by a customer of an employer and not accounted for by the employee to the employer, although includible in the employee's gross income, were not wages subject to the Federal employment taxes. Under section 6053(a) of the Code, an employee who receives cash tips amounting to \$20 or

more in any calendar month after 1965, in the course of his employment by an employer, must report the tips to the employer by furnishing one or more written statements not later than the 10th day following the month of receipt. The employer must withhold the employee taxes under the Federal Insurance Contributions Act and the income tax on the reported tips from wages of the employee (other than tips) under the employer's control or from other funds made available for this purpose by the employee. Tips received after 1965 are not subject to the employer taxes imposed by the Federal Insurance Contributions Act.

The congressional intent with respect to the treatment on and after January 1, 1966, of so-called "gratuities" which actually are service charges of the type the Service has consistently held to be wages is expressed in the Conference Report on Public Law 89-97 (H. Rept. 682, 89th Cong., I.R.B. 1965-42, 66, at page 74) as follows:

"Under the conference agreement, the provisions of section 313 of the bill are to apply with respect to all tips received by employees after 1965 including those which under existing law would have been covered for social security tax purposes by reason of being accounted for by the employee to the employer. The provisions of section 313 of the bill, of course, do not apply to amounts which, although denominated tips, constitute wages under present law irrespective of whether accounted for by the employee to his employer."

Under the "present law" referred to in the Conference Report (that is, the law in effect before 1966), service charges collected from members or customers and distributed before 1966 to employees are wages, and not tips, under the rulings published in S.S.T. 145 and Revenue Rulings 57-397 and 59-252, referred to above. The charges continue to be wages, and not tips, under the Code as amended by the 1965 amendments. Accordingly, the club in the instant case may not treat the "gratuities" it collects, through mandatory charges, as tips for Federal employment tax purposes, and the club is not relieved from liability for the employer taxes. The club should continue to treat these amounts as service charges which are wages subject to both the employee and employer taxes under the Federal Insurance Contributions Act, to the employer tax under the Federal Unemployment Tax Act, and to income tax withholding.

The additions and amendments made to the Code by the provisions of section 313 of the Social Security Amendments of 1965 have no effect on S.S.T. 145, Revenue Ruling 57-397 or Revenue Ruling 59-252, referred to above.

Rev. Rul. 66-75: "The Internal Revenue Service answers various questions concerning the treatment and reporting of tips under the Federal Insurance Contributions Act."

Various questions have been presented to the Internal Revenue Service relative to the treatment and reporting of tips under the Federal Insurance Contributions Act (chapter 21, subtitle C, Internal Revenue Code of 1954), as amended by section 313 of the Social Security Amendments of 1965, Public Law 89-97, I.R.B. 1965-42, 9. The questions presented and answers thereto follow:

Questions 1 and 2.—Assume that during 1966 and before the end of that year an employee has received "wages" paid by his employer in the amount of \$5,000 and has received cash tips (from customers of his employer) in the amount of \$1,600. If the employer continues to pay additional wages to the employee in 1966, is the employer liable for the employer taxes on the additional payments to the employee over and above the \$5,000 and up to the annual wage limitation of \$6,600 during 1966? Is the employee liable

for the employee taxes on these additional payments?

Answers to Questions 1 and 2.—After 1965 the term "wages", as defined in the Act, includes certain tips for purposes of the employee taxes but not for purposes of the employer taxes. Under these facts the employer incurs liability for employer taxes on the first \$6,600 of wages he pays to the employee in 1966, but the tips received by the employee are not subject to the employer taxes. The employee taxes apply to the first \$6,600 of wages, including tips, received by the employee (that is, the first \$5,000 received from the employer and the \$1,600 tips). The additional payments made by the employer are not subject to employee taxes. Stated differently, tips count against the \$6,600 annual limitation of wages subject to the employee taxes, but the employer's liability for employer taxes on wages continues until wages other than tips total \$6,600 for the year.

Questions 3 and 4.—3. If an employee receives \$40 in cash tips directly from customers of his employer during March 1966 and reports the \$40 to his employer during the first 10 days of April, should the \$40 be reported by the employer in his return on Form 941, Employer's Quarterly Federal Tax Return, for the first quarter of 1966 or for the second quarter of 1966? 4. If any employee receives \$80 in tips during March 1966 and reports \$50 of this amount to his employer on March 25 and reports the balance of \$30 to his employer on April 9, when should the employer report these tips?

Answers to Questions 3 and 4.—Tips reported by an employee to his employer in a written statement as required by section 6053 (a) of the Internal Revenue Code of 1954 are deemed to be paid to the employee at the time the written statement is furnished to the employer. (If a written statement is not furnished, the tips are deemed to be paid at the time the tips are actually received by the employee.) Under section 6053(a) of the Code, an employee who receives cash tips amounting to \$20 or more in any calendar month after 1965, in the course of his employment by an employer, must report the tips to the employer by furnishing one or more written statements not later than the 10th day following the month of receipt.

In question 3 the tips received in March and reported during the first 10 days of April should be treated as paid to the employee in April. These tips should be included in the return of the employer for the second quarter of 1966.

In question 4 the \$50 reported on March 25 should be treated as if paid on that date and should be included in the return of the employer for the first quarter. The balance of \$30 should be treated as if paid when reported, on April 9, and should be included in the return for the second quarter.

Question 5.—This question relates to section 3121(a)(12)(B) of the Act, under which cash tips actually received by an employee in any calendar month in the course of his employment are not taxable wages unless the amount is \$20 or more. Assume that in March 1966 an employee actually receives \$31 in cash tips from his employer's customers, and that in making written reports thereof to his employer as required by section 6053(n) of the Code, the employee reports \$20 on March 31 and \$11 on April 5. To what amount do the employee taxes apply?

Answer to Question 5.—Under these facts the employee taxes apply to the entire \$31. The exclusion provided by section 3121(a)(12)(B) of the Act does not apply, because the amount of cash tips actually received in March was \$31. Assuming that these were the only tips received by the employee in the course of his employment, the employer would report \$20 in his return for the first

quarter of 1966 and \$11 in his return for the second quarter of 1966.

26 CFR 31.3121(b)-3: Employment services performed after 1954.

Services performed in the United States by residents of Canada. See Rev. Rul. 66-77, page 18.

26 CFR 31.3121(d)-1: Who are employees. (Also Sections 1441, 3306, 3401; 1.1441-1, 1.1441-3, 31.3306(i)-1, 31.3401(c)-1.)

Rev. Rul. 66-76: "A and B, citizens of India, are in the United States receiving training under a program conducted by a United States corporation. The training covers most phases of the company's work at its plant in India at which both A and B expect to be employed after their training. It includes performing services of the same type and under the same conditions as regular employees in the company's United States plant. A's training program will last more than 2 years and B's will last about 8 months. Held, A and B are employees of the company under the Federal Insurance Contributions Act and Federal Unemployment Tax Act with respect to these services. A's wages are subject to withholding under section 3402 of the Internal Revenue Code of 1954 whereas B's wages are subject to withholding under section 1441 of the Code."

Advice has been requested whether the individuals described below are employees for purposes of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and the Collection of Income Tax at Source on Wages (chapters 21, 23, 24, respectively, subtitle C, Internal Revenue Code of 1954).

A and B are citizens of India who are in the United States for the purpose of receiving training under a program conducted by a United States corporation. In connection with their training, both A and B perform services at the company's plant in the United States. They are both apprentice engineers and perform the same type of services as any of the other apprentice engineers in the company's plant. They work regular hours and follow the same routine as the other engineers. The company exercises the same control and guidance over them as it does over regular employees doing the same type of work.

A is paid a monthly salary for his services. His training in the United States is expected to last at least 2 years. B is paid at an hourly rate for his services. His training program in the United States is expected to be of approximately 8 months duration. Before coming to the United States, B was employed at the company's plant in India.

Although A and B are not obligated to work at the company's plant in India following completion of their training, the fact that their training programs are directed to that end and cover most phases of the company's work at that plant indicates that they expect to do so. Neither A nor B is in the United States under an "F" or "J" visa within the meaning of section 101(a)(15) of the Immigration and Nationality Act, as amended.

Whether or not the individuals described above are employees for Federal employment tax purposes depends upon whether they have the status of employees under the usual common law rules. Guides for determining that status are found in three substantially similar sections of the Employment Tax Regulations, sections 31.3121(d)-1(c), 31.3306(i)-1, and 31.3401(c)-1.

The facts presented in this case establish that the company exercises, or has the right to exercise, such direction and control over both A and B in the performance of their services as is necessary to establish the relationship of employer and employee under the usual common law rules. Accordingly, A and B are employees of the company for

purposes of the Federal Insurance Contributions Act and the Federal Unemployment Tax Act.

Considering the length and nature of A's stay in the United States, in the light of the applicable regulations and the principle set forth in Revenue Ruling 54-87, C.B. 1954-1, 155, A is treated as a resident alien whose wages are subject to withholding under section 3402 of the Code.

On the other hand, in view of the fact that B intends to remain in the United States for only about 8 months, B's status will be that of a nonresident alien engaged in trade or business within the United States through the performance of personal services in this country. His compensation for services performed will be fixed or determinable annual or periodical income from sources within the United States and, therefore, will be subject to withholding under section 1441 of the Code at the rate of 30 percent on the gross amount thereof. However, in computing the amount of tax to be withheld at the source, the benefit of the personal exemption of \$600 may be allowed, prorated upon the basis of \$1.70 per day for the period of employment during any portion of which labor or personal services are performed within the United States by such alien. See section 1.1441-3(e)(2) of the Income Tax Regulations.

It is extremely important that the service charges referred to be handled the same way by the Internal Revenue Service and by the wage and hour people so far as the interpretation is concerned. I would hope that we could have a legislative history here in agreement that this is our intent.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from Pennsylvania.

Mr. DENT. The rulings follow the theory and practice that anything charged to a customer necessarily has to be the business of the employer, because the employer sets that charge. All restaurants, when they price their meals to a customer, have included within the price a service charge for services rendered. This type of an employer, in order to not confuse the issue of tips, has added a service charge for the extra services given by the waitress or waiter, and then in turn pays it back to them either in greater or lesser degree, because he establishes a wage that he pays them. The amount of the extra service charge does not determine the full amount of the wage. It will not interfere with the purpose of this act, which is interested only in having an employee receive a specified minimum reimbursement for services, whether it comes from tips or from wages. The purpose of the bill is to see that it is paid.

Mr. GOODELL. I agree with the gentleman. In effect we are saying that when a flat service charge is made the amount that is then disbursed to the employees from the fund is wages to the employees.

Mr. DENT. That has been determined by rulings of the Internal Revenue Service already.

Mr. GOODELL. That is correct.

Mr. DENT. I believe it is the line followed by the Social Security Administration on the question of what was turned in as tips and what was turned in by the employer as wages paid.

I am sure another department of the Government would follow that precedent set by these two.

Mr. GOODELL. I think that is the result, and we ought to make it abundantly clear in the Record that we intend that it be carried out in that way. I might say that the significance of this is primarily this: It means if an employee should receive from a flat service charge collected by the employer an average of \$1 an hour, that \$1 an hour received from these service charges is not tips but wages. Therefore, that \$1 an hour is not subject to the limitation of 35 or 40 or 45 percent that can be credited as tips. That is the significance of this, and I think we have to make it clear.

Mr. DENT. Mr. Chairman, will the gentleman yield further?

Mr. GOODELL. Yes. I yield to the gentleman.

Mr. DENT. This bill does not set any specific amount where a tip is considered a part of the wage except in saying that up to a certain percentage of the established statutory minimum wage credit can be given for tips.

Mr. GOODELL. That is correct.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. DENT. Mr. Chairman, I yield the gentleman 1 additional minute.

If the gentleman will yield further, let us say that the charge is made for a service and it comes to \$1 an hour. However, if that minimum reaches \$1.25 and the employee still only gets \$1 an hour out of this combined service plus wage, as we would normally call it, then the employer is liable for the other 25 cents.

Mr. GOODELL. That is correct.

Mr. DENT. Because there is no tip lost.

Mr. GOODELL. But the point is this: The full \$1 an hour paid to him from the service charge is credited.

Mr. DENT. That is right.

Mr. GOODELL. He is not subject to the limit of 35 or 40 or 45 percent, because this money paid to him is not defined as tips but is wages.

Mr. DENT. That is right.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from California.

Mr. BURTON of California. Does the gentleman agree that this situation or these amounts should be considered wages if the employer pays, as he must, on all other wages for the purposes of unemployment insurance coverage and social security coverage?

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BELL. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. BURTON of California. If the gentleman will yield further, does the gentleman not agree that wages are to be deemed, for the purposes of meeting the minimum wage law, those wages which can be considered as wages only if they are deemed to be wages and so treated for the purposes of social security and unemployment insurance contributions by the employer?

Mr. GOODELL. I agree at least par-

tially with that statement. There are certain instances where the two examples given by the gentleman are treated differently by the Internal Revenue Service. I think it our intent here that where a compulsory service charge is made, this be credited as wages. The Internal Revenue Service gets into a different question as to how much an employer and employee must contribute in different instances. That is not applicable to our situation here.

Mr. BURTON of California. It would be my understanding if these amounts are wages, they would be considered so only in those instances where they are treated as wages wherein the employer meets his employer's obligation as to all wages paid for social security purposes and unemployment insurance purposes. If the employer does not meet his obligation with respect to these amounts, then I could not agree with the view that this amount should be deemed wages. In the event they do treat these amounts as wages, then I will concur in the colloquy taking place.

Mr. GOODELL. The gentleman is unnecessarily complicating this situation, because there is a distinction made by the Internal Revenue Service with reference to whether an employee has to pay a contribution in certain instances, but the point applicable to this is that the Internal Revenue Service has clearly and distinctly said in the circumstances I describe, where there is a flat service charge imposed on a compulsory basis and conditions are met which I read to you, that this is wages to the employee. To that degree and that degree only we are going to consider the wage here under this legislation. That is the point that I think should be unmistakably clear. The question of the contribution to social security and unemployment compensation gets into another problem as to whether the employee himself has to make a contribution. In some of these instances they say only the employer must make the contribution. I would not want it complicated or confused by that fact; that is all.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield further?

Mr. GOODELL. I yield further to the gentleman from California.

Mr. BURTON of California. I am entirely aware of the effect of what this means and of the importance of this discussion.

I am merely stating that it would be my view that these amendments could only be as to wages if they are treated as wages by the employer, and in the same manner as all other wages are paid, and more particularly the manner in which the employer pays up to certain statutory amounts for social security and unemployment purposes.

Mr. GOODELL. I believe we are in essential agreement, and I am sure I am in complete agreement with the chairman of the subcommittee.

I believe we have a clear record on that. There is some ambiguity, perhaps, in the last colloquy but the chairman and I agree that compulsory service charges treated as wages by Internal

Revenue will so be treated under this act.

I ask the gentleman from California [Mr. BELL] if the gentleman agrees with the legislative history as enunciated by the gentleman from Pennsylvania and upon which he and I have just elucidated on the floor of the House?

Mr. BELL. Mr. Chairman, if the gentleman will yield, yes, essentially I agree with the gentleman from New York.

Mr. GOODELL. Mr. Chairman, I yield back the balance of my time.

Mr. DENT. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Hawaii [Mrs. MINK].

(Mrs. MINK asked and was given permission to revise and extend her remarks.)

Mrs. MINK. Mr. Chairman, I would like to rise in support of the bill.

[Mrs. MINK addressed the Committee. Her remarks will appear hereafter in the Appendix.]

Mr. BELL. Mr. Chairman, I yield 10 minutes to the gentleman from Alabama [Mr. GLENN ANDREWS].

(Mr. GLENN ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. GLENN ANDREWS. Mr. Chairman, this has been a lovely May afternoon. I have never seen such agreement in all of the many speeches since I have been in the Congress. I have looked hard for somebody who disagreed with this legislation and I finally found him; and that is I.

Mr. Chairman, minimum wages are a mirage. They are a chimera. We have had to boost them every 4 or 5 years since 1938, because they phased themselves out and the object of our hoped for achievement which is to effect a pay raise for the lowest employed has become lost. We have had to come back and hit it again every few years.

Mr. Chairman, this process has been going on since 1938. Actually, it is very interesting to me, and I feel this will sound silly, that this bill is unconstitutional. This remark seems rather absurd, perhaps, at this particular point in our history, when we have had one instance right after the other of this type legislation, for many years.

But in reading the 5 to 4 opinion of the Supreme Court in 1937, delivered by Charles Evans Hughes, the constitutionality of this whole thing was sustained, when it had enjoyed an unconstitutional position since 1923. At the point of the 5-to-4 decision saying it was constitutional, the basis of thought behind the constitutionality of minimum wages was simply that the employer enjoyed a peculiar advantage over the employees. This was the basis of the decision to admit the constitutionality of the minimum wage in theory.

Mr. Chairman, I say to you at the present time that the situation has been entirely reversed. With the mobility of labor, with the increased communications that we have, it is the employee that now has the advantage and not the employer. If Hughes were here today I believe he would reverse.

At any rate, constitutional or not—and that is a subject that really does not have the discipline it used to have—and we are responsible for some of that—but we are debating the abridgment, by this Congress, of the freedom of contract of 7 million additional Americans and their employers.

The question we are debating is whether or not it is in the public interest. The question is: What will be the net effect of this bill—which, do not forget, departs substantially from the wage correcting legislation of the past.

This is a brandnew bill. We have never had anything like it before. The corrective wage legislation we have had in the past simply dragged the minimum wage from 25 cents to \$1.25 an hour. The impact departed somewhat, but only to the slight extent, in 1961, when we had the \$1 million exemption. That 1961 legislation still held this business to the very large interstate industries in most cases where you had a uniform purchasing power—at least regionally and nationally.

The former minimum wage bills then dealt with these great industries capable of either absorbing the additional labor costs or passing them on in price boosts to the national or at least to the regional market representing a fairly uniform purchasing power.

Although this principle was departed from in the 1961 legislation, again the \$1 million exemption in effect kept minimum wages only upon the big fellow capable of absorbing or passing along these increased costs.

But this bill moves on to the intrastate or the purely local industries and, therefore, involves an inability to pass along New York costs to Mississippi's local purchasing power. That is a tremendous difference.

This is a difference that no one who has written on this subject has dared to even go into or to discuss. Leon Kyserling has just written a tremendous book on this subject which was published about a month ago and he did not dare to mention the effect in discussing the whole minimum wage and its distribution across the whole Nation of varying incomes using a uniform minimum wage rate.

On a fateful evening last year, debating the Green amendment to the elementary education bill, my colleague, the gentleman from Michigan [Mr. O'HARA], declared that the Green amendment would produce a monster—because, he said, \$2,000 a year was poverty in Mississippi; \$5,000 a year was poverty in Chicago; and \$6,000 was poverty in New York.

Mr. O'HARA at that time was fighting the distribution of funds to the places of greatest need.

Now I would say to the gentleman, we saved the real monster until today—and that is this—the minimum wage bill, which, by establishing a uniform wage rate across the Nation, demands that a New Yorker's cost be borne by Mississippi employers and be paid for by local Mississippi purchasing power.

The only result of such a business is

economic carnage in the low-income States.

If the gentleman from Michigan [Mr. O'HARA] is deeply interested in the poor, why would he be more interested according to his own account in a Mississippi minimum wage getting twice as good a shake or three times as good a shake as a minimum wage in Chicago or one in New York? Mississippi has half the per capita income of New York. Puerto Rico has half the per capita income of Mississippi. Now per capita income is a fair measure of purchasing power. Puerto Rico has already been given special treatment. I understand the distinguished chairman of the Committee on Education and Labor proposes to exempt Puerto Rico entirely from this bill.

The treatment of Puerto Rico in this bill is mild compared with the treatment accorded to the low-income States on the mainland.

I agree that in Puerto Rico this bill would cause havoc. I warned them some time ago that the hurricane of "Minimum Wage Betsy" was heading their way and to batten down the hatches. But if Puerto Rico is to be exempted, then the bill is entirely an instrument of regional economic warfare and should be scrapped. If this bill is to make Puerto Rico a playground of special interest, then this is the time to scrap this bill.

Our Nation is enjoying the most highly "souped up" economy in our history, with almost the broadest employment ever experienced, and yet a substantial group of our citizens, largely Negro, are yet unemployed. This condition is not peculiar to Selma, Ala. If I may say so, it never was.

The night before last I watched the TV news. I observed that in Watts the unemployment rate is 37 percent. A year ago President Johnson pointed out very clearly that Negro unemployment had become twice that of white unemployment in 20 years. It is quite obvious to everyone that something other than discrimination is happening.

Did it ever occur to the proponents of this bill that the hard-core unemployed at the present time are unemployed because of the results of past minimum wage bills? Just wait until this bill goes in effect. Gentleman, this is a raise-the-pay-of-one-fire-one bill. This is a bill which will create unemployment. This bill will create a multitude of additional poor and will raise the plateau of employment \$14 a week above the hungry reach of the already unemployed.

This bill will create hard-core poverty through forced unemployment.

I hold with my Puerto Rican friends that the poorest pay job in the world is no job. After 2 years of war on poverty we are about to pass a bill to multiply poverty. This is a bill to phase out the little business and to disperse their employees to the cities and onto the relief rolls.

This is a bill which will destroy the little guy and turn his business over to the big guy. This is a bill which will phase out all marginal industries and their proprietors and, of course, the jobs that go with them.

If this is fantastic sounding, I quote to you George Meany in testimony before the Senate committee in 1961:

If they don't pay minimum wages, I would rather that they go out of business.

And I quote Sidney Zagri in testifying before my committee on the repeal of section 14(b) of the Taft-Hartley Act, "we simply cannot allow marginal industries to continue to exist." It is indeed cynical that this Congress should take such a step.

Mr. DENT. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. JOELSON].

(Mr. JOELSON asked and was given permission to revise and extend his remarks.)

Mr. JOELSON. Mr. Chairman, I rise in support of this legislation. I heard the previous speaker say this is a bill to destroy the little guy. In my book, it is a bill to give the little guy a decent living wage.

I also strongly support the move to extend the coverage of the Federal wage and hour law to farm labor. Agricultural workers have been the stepchildren of our economy, and it is imperative that their conditions be improved.

While I acknowledge that there may be reasons against fixing farm wages at levels as high as those relating to industrial employment, I believe it vitally important that we establish some kind of minimum wage if we are to eliminate the disgraceful condition of migratory and farm workers.

If farm owners would face up to the need of paying a living wage, perhaps they would be able to solve the problem of a shortage of farm labor.

It seems ironic to me, Mr. Chairman, that farm owners who are quick to seek and accept Government subsidies are crying the loudest against "Government intervention" when Congress seeks to do justice to agricultural workers who have too long been living in peonage.

Mr. DENT. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. DANIELS] such time as he may consume.

(Mr. DANIELS asked and was given permission to revise and extend his remarks.)

Mr. DANIELS. Mr. Chairman, I rise in support of H.R. 13712. This very worthwhile bill would amend the Fair Labor Standards Act of 1938 by raising the minimum wage, extending its protection to additional employees, and providing various overtime protections. I have always favored legislation that would establish mandatory minimum wages, and I have always favored legislation that would improve the economic status of our lower income wage earners.

There are now 29,600,000 employees covered by the Fair Labor Standards Act. The bill before us today would guarantee a minimum wage for these employees of \$1.40 an hour, effective February 1, 1967, and a minimum wage of \$1.60 an hour, effective a year later, February 1, 1968.

The bill would also extend minimum wage provisions of the Fair Labor Standards Act to approximately 6 million employees in occupations not now covered by the act—retailing, including auto,

truck, and farm implement dealerships; transit and taxicab systems; restaurants and food service establishments; lodgings; hotels and motels; and hospitals and related institutions. Employees in these fields, beginning February 1, 1967, would receive a guaranteed minimum wage of \$1 an hour. Provision is made in the bill to raise this minimum 15 cents an hour each year until February 1, 1971, when the guaranteed hourly minimum would be \$1.60.

Agricultural workers are treated separately in the bill. Some 485,000 farm workers would be covered by the legislation, which guarantees them a minimum of \$1 an hour beginning February 1, 1967. The minimum wage for these agricultural workers would rise 15 cents an hour, effective February 1, 1968, and another 15 cents, effective February 1, 1969, to bring the guaranteed minimum for farm workers up to \$1.30 an hour.

Wage protection would also be extended to some 665,000 Federal wage board and Federal service contract employees. Beginning next February, the minimum hourly wage for these two groups of workers would be \$1.40, and a second raise, effective February 1, 1968, would bring the minimum up to \$1.60.

The overtime protection plan for these new employees is extremely important. This legislation requires that a newly covered employee must receive compensation at a rate not less than 1½ times the regular rate at which he is employed for hours in excess of 44 in any workweek beginning February 1, 1967; 42 hours in any workweek starting February 1, 1968; and 40 hours in any workweek starting February 1, 1969.

Of special interest and concern to me are the Federal wage board employees. These "blue collar" workers are exempt from the Federal Classification Act. The group includes men in recognized trades or crafts, skilled or unskilled manual-labor occupations, foremen or supervisors in these fields, and certain employees of the Bureau of Engraving and the Government Printing Office.

Under the present law compensation for wage board employees is fixed but can be adjusted from time to time, consistent with the public interest and in accordance with prevailing rates for similar work in the private sector. The Civil Service Commission has the authority to raise wages of Federal wage board employees when, in the opinion of the Commission and of the employing agency, compensation has fallen below rates for similar work in the private sector and the adjustment is needed to attract employees to Government work.

The "adjustment" formula is a fine one in theory, but practice has revealed some unfortunate shortcomings. There is, first, no guarantee that wage board employees will receive the minimum guaranteed those covered by the Fair Labor Standards Act; and, second, if the agency performs its duties as stated, there would be a time lapse between the passage of the minimum wage and the performance of such duties, thereby causing the Federal employee to be the lowest paid employee in the country.

The minimum wage bill of 1961 is a primary example of this. In 1961 the

minimum compensation was set at \$1.15 an hour to start September 3, 1961 and rise to \$1.25 an hour—the present rate—on September 3, 1963. A number of non-industrial wage board employees—janitors, food service, hospital, laundry, and so forth—were placed in the position of being paid less than the minimum wage. We could not and cannot afford to treat our employees in this matter and expect to keep the better qualified in Government employment.

Due to the excellent judgment of our beloved late President, John F. Kennedy, this problem was resolved in 1961. President Kennedy sent a directive memorandum to all Government agencies requesting and advising that all employees be paid the minimum wage as outlined in the bill. These employees were fortunate that the President took a personal interest in their welfare. We, as legislators, cannot depend on such events in the future. If we expect private industry to be bound by minimum wage standards, then we must be willing to give the same benefits to our own loyal employees.

In conclusion, Mr. Chairman, it is necessary and proper that H.R. 13712 be enacted into law, in order for our citizens to maintain their individual support, dignity, and self-respect in our complex economy.

Mr. DENT. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. MINISH] such time as he may consume.

(Mr. MINISH asked and was given permission to revise and extend his remarks.)

Mr. MINISH. Mr. Chairman, I am happy to offer my support of H.R. 13712, the Fair Labor Standards Amendments of 1966, and to urge its passage without weakening amendments.

There is, I believe, no area where more effort has been put forth to deliberately obscure and confuse the Congress and the public, than on the questions at issue in the endeavor of the Congress to improve this law. The lesson of my experience, both before and since I have been in Congress, is that almost none of the claims made by opponents of minimum wages have any basis in fact. They claim that raising the minimum wage or extending the coverage of the Fair Labor Standards Act will result in mass layoffs of employees, or in great numbers of small firms going bankrupt. Each year these same individuals cry out they are ruined, and the next year they appear before the same committee, having flown to Washington and put up at the best hotels, and repeat their story of gloom and doom.

Mr. Chairman, this is a ridiculous charade. I say, to our colleagues: Vote your conscience; extend the protection of this law to those in need of protection; end the disgraceful situation of workers and their families dwelling in poverty in our dynamic economy.

Mr. Chairman, Congress has acted to establish or increase the minimum wage in 1938, in 1949, in 1955, and in 1961. From 25 cents an hour, we have increased the rate to \$1.25 an hour. Does anyone believe that we have more unemployment and more bankruptcies today than in 1938?

The bill before us provides that the minimum wage for those employees presently covered by the act will be \$1.40 an hour beginning February 1, 1967, and \$1.60 an hour beginning February 1, 1968. The proposed minimum wage for newly covered workers—other than those employed in agriculture—will be \$1 an hour beginning February 1, 1967; \$1.15 an hour beginning February 1, 1968; \$1.30 an hour beginning February 1, 1969; \$1.45 an hour beginning February 1, 1970; and \$1.60 an hour beginning February 1, 1971. For newly covered agricultural workers the bill provides a minimum wage that will be \$1 an hour beginning February 1, 1967; \$1.15 an hour beginning February 1, 1968; and \$1.30 an hour beginning February 1, 1969. Thus, the proposed new wage floors will be reached gradually within 2 years from now for those presently covered by the act and for certain Federal employees and Federal service contract employees; 5 years for those, other than agricultural workers, who will be newly covered by the act; and 3 years for newly covered agricultural workers. Is this not a very moderate proposal for the alleviation of poverty among the working poor?

In the past few years our attention has been directed to two aspects of the problem of poverty. We have striven to raise the standards of living of those in our society who cannot work; the aged, the sick, the widows, children, and other dependents. The thrust of many of our efforts to strengthen our social security laws has been in this direction. We capped these efforts last year when we enacted medicare.

The other aspect has been to improve the opportunities of those who can work, but who cannot find jobs. These include the young, the uneducated, the residents of depressed areas, the unemployed in general. We have set in motion programs to provide training or retraining and to provide jobs. We have strengthened vocational education; we have provided for aid to depressed areas under ARA. Training and financial assistance under this antipoverty program is now a growing reality. Retraining of displaced workers proceeds under the Manpower Development and Training Act. Jobs have been provided for many of the unemployed by accelerating public works.

As we have done these things, we have become increasingly conscious of the needs of yet another group in our society. Hitherto our efforts have been directed toward the problems of the unemployed poor or the unemployable poor. But what of those who have jobs, but earn so little that they fall below the poverty line? Who, even though their hours equal or exceed those usually worked in our society, find at the end of the year that their earnings provide an income less than that of many who do not work or cannot work. What of the employed poor?

One of the truly sickening things that came out of the last few years' consideration of the problems of poverty was that 49 percent, nearly one poor family in two, was headed by a man or a woman with a job. Yet, despite the fact that

the head of the family was working, family income in 1962 was less than \$3,000 a year for these families. That was our definition of poverty—a family income under \$3,000 a year.

It is bad enough to be unemployed and living in poverty in the midst of the affluent society. It is unconscionable to be employed and living in poverty in an affluent society. The men and women who would be involved in this legislation are—as a group—paid less than a subsistence wage. They work long hours, often at unattractive jobs, and their labor is useful, even indispensable, to their fellow citizens. They are surely entitled to the protection afforded by the bill before us today. A decent wage for workers is essential to eliminate poverty. A man or woman working full time should be able to maintain his family at minimum levels of decency in our affluent society. The moral and economic arguments for the minimum wage bill before us are sound; its enactment will provide badly needed assistance to millions of often-forgotten Americans.

H.R. 13712 is the result of extensive hearings and consideration. It provides moderate but significant improvements in the act, and deserves the support of all of us.

Mr. DENT. Mr. Chairman, I yield to the gentleman from Virginia [Mr. MARSH] such time as he may consume.

(Mr. MARSH asked and was given permission to revise and extend his remarks.)

Mr. MARSH. Mr. Chairman, one of the elements of the pending bill which gives me concern is that affecting agriculture.

I know that all of us here want to be fair to the producers of food and fiber in the United States, and to their employees. There are, however, differences in agricultural production, processing and marketing which, in many cases, are sharper than to be found in other industries, and I fear that adequate consideration has not been given to these differences.

The effects of enactment of the legislation, as now before us, could be very substantial—and very damaging—to agriculture.

In my congressional district, Mr. Chairman, the economics of the poultry and fruit elements of agriculture are of great significance—not only to those directly engaged, but also to the wholesale, retail and service industries of the communities of the area, which serve poultrymen and orchardists.

With respect to the fruit industry, I have had called to my attention several examples of situations which would indicate that enactment of the bill pending, in its present form, would create new disparities among farmers engaged in the same general area of agriculture—the production of fruit for the commercial market—and I should like to cite these for the information of the committee, without any suggestion that they are unique, but only to point up the need for further study of the provisions of the bill, because of the inequities it contains.

A grower newly covered by the pending

bill, provided he is engaged only in the growing, preparation and storage of his own crop, would become subject to a wage scale beginning at \$1 an hour and moving upward to \$1.15 an hour and then to \$1.30 an hour, with no maximum weekly limitation on hours worked.

Another grower, who is engaged in the same operations as the one cited above, but also performs preparation and storage services for neighboring growers for a fee, without buying their fruit, would be subject to hourly wage rates of \$1.40 and then of \$1.60, plus overtime rates after 40 hours a week.

In this second example, the grower involved could get out from under the hour limitation and come under a lower wage requirement by refusing to serve any longer his neighbors. The result would be that his neighbors would not have the channels to market which they had enjoyed in recent years, and would have to undertake the establishment of their own processing and storage operations.

I am advised a further class of growers—those who have banded together for preparation and storage at a central facility, while retaining title to their own crops until the first sale in the marketplace—would come under the wage and hour requirements of the producer whose situation was set forth immediately above.

These producers may well find that they would have to break up into individual units and regain the individual exemption as small growers, or sell out to large operations under individual or corporate ownership.

I do believe that sufficient thought has not been given, Mr. Chairman, to the immediate and potential effects of the agricultural provisions of this bill in specific circumstances.

What I have outlined in regard to fruit industry in Virginia likely could be applied, with variations, to the poultry industry in Virginia, and to many other agricultural pursuits across the Nation.

I hope that we may have active consideration of appropriate amendments to remove the inequities which clearly are built into the bill as it is before us at this time.

Mr. DENT. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. PUCINSKI].

(Mr. PUCINSKI asked and was given permission to revise and extend his remarks.)

Mr. PUCINSKI. Mr. Chairman, I rise in support of this legislation. I believe that that if there is such a thing as consensus government, the bill before us today, despite the many differences, comes about as close to that ideal as we will ever come.

The gentleman from Pennsylvania [Mr. DENT] has worked tirelessly, carefully, and patiently to hear all of the sides on all issues. He has shown a compassionate understanding for the problems of both sides in this legislation. I believe that in this bill is reflected his sincere desire to be fair with all sides concerned.

As the ranking majority member on this subcommittee, next to my chairman, I must say that it is a privilege and a

pleasure to be able to work with him on this legislation because, indeed, Mr. Chairman, he has shown a profound knowledge of this dynamic economy of ours and has tried to respect the rights of all parties concerned.

In order to understand what we are doing here today, we have to understand the revolution that has occurred in America in the last decade. In 1956, 56 percent of the American labor force was employed in production employment. Only 44 percent was engaged in services. So, as we passed the various milestones of this legislation, from 1938 until the middle 1950's, it was relatively easy to legislate minimum wage laws, because we were dealing with production workers, and we could measure the productivity. We did not have too many problems.

So we saw, in 1938, a 25-cent-an-hour bill, then a 40-cent bill, then a 60-cent bill, and then a 75-cent, and then \$1, and then \$1.25.

But in 1965 the picture is substantially different. Today 56 percent of the American labor force is engaged in services, and only 44 percent in production. So we are now dealing with a most difficult aspect of this legislation, because we are reaching out in the service industries that have peculiar problems associated with each of these industries.

I submit that this subcommittee has tried to recognize the peculiarity of those problems.

In regard to the restaurant industry, we realized that certainly an employer has a right to recognize the fact that while he does make his premises available to a waitress she does get tips, she gets gratuities, for the work she is doing there. So this committee had to try to draw some line between a salary, a remuneration to this employee, on the one hand, and a recognition that there is a gratuity factor involved. A girl who gives good service to her customer will get a little bigger tip than a girl who does not give good service, and so on.

So the committee has carefully written into the bill a legal presumption that an employer may attribute up to 35 percent the first year, 40 percent the second year, and 45 percent thereafter of the minimum wage to tips.

I understand an amendment will be offered later in the proceedings to make that 45 percent across the board. I submit there is merit to the amendment, and I hope that the committee will accept the amendment.

We also recognized the peculiar aspects of the restaurant business, so we excluded overtime, knowing full well it is difficult to control the eating habits of the patrons. Rather than impose undue hardship on the owners of these restaurants, we said, "All right; we will keep this industry out of the overtime."

We also recognized that these restaurants hire many students, so we have applied an 85 percent of the minimum wage to bona fide students who are employed in these restaurants.

Finally, we recognized the problem of the busboy. We recognized that the busboy does get some tips, but perhaps not as many as a waitress. Realizing that this is a difficult problem, we provided

that any employee who earns \$5 a week or more in tips will come under the tip-employee qualification.

Mr. Chairman, in the case of the restaurants—a difficult industry about which to legislate—I would say this committee has shown deep understanding. We have come up with a formula every Member of this House on both sides of the aisle can support.

In respect to the food processors, much has been said about the food processing industry. It seems to me we must recognize now an indisputable fact, that this has become a big industry. No industry in America has been as highly automated as the food processing industry.

For those who would suggest that we are going to curtail job opportunities, that we are going to take work away from people by placing this industry under the minimum wage, I say this defies the facts and ignores the truth, for the testimony before my subcommittee clearly indicated there has been a great diminution of job opportunities in this industry because of automation, even now, when it is not covered in two exemption periods under the minimum wage.

Let me give some examples of some of the things that are happening in the food processing industry.

The Green Giant Co. uses fully automated equipment form, fill, and seal pouches at the rate of 3,600 per hour, or 60 per minute.

A report from the Amalgamated Local 56, New Jersey, lists recent changes in five representative plants.

As to plant A, this plant has installed a new automatic tomato slicer.

Originally, this operation took 25 women to operate and now operates with 5 women. Automatic can feeder was installed, which took five people and is now operated by one person. Labeling machines which formerly took two people is now operating two machines with one person.

Plant B. Automatic vibrating machines for feeding asparagus originally had 126 women to operate these lines, is now operating with 30 women. An operating can feeder direct from the trailer now uses three persons, originally used six. Barnes loader and unloader into crates is operated by one person, would take the place of five people.

Plant C. This plant has put in two continuous cookers with continuous can lines which is now operated by 5 persons, which formerly took 20 persons. They formerly used women, now are using an automatic packer which does away with all.

They also have installed an automatic onion cutter which now is operated by one person, which does away with five persons. They have installed an automatic mold counter which eliminated four persons.

Let us look at the record a little further.

The following is a brief sampling of specific technological changes in the canning and freezing industries:

The April 1964 issue of Food Engineering alone lists six new machines for counting chunk items up to 500 per min-

ute by electronic eye and packing items in cans.

Coring tomatoes at 4 tons per hour. Slicing mushrooms at 1,200 pounds per hour.

Sorting small fruit by high-speed photoelectronics.

Separating beans at rate of 2,000 per hour.

Packaging raisins at rate of 260 boxes per minute.

This has become a highly automated industry. It constitutes one of the big industries of America.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DENT. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. PUCINSKI. You cannot see America reach this great plateau of a \$735 billion gross national product and within our time; yes, by 1972 reach a \$1 trillion gross national product without making sure that every single American shares in the stream of this economy and carries his fair share of the load.

So I say to you this minimum wage bill is a historic bill because it affords every single American an opportunity to share in the blessings and the bounty of this free capitalistic system. For anyone to suggest that we do not bring the food processors under this bill is to deny a large segment of the American economy a chance to play its role in the growth of America.

Now, as to the agricultural workers, this bill provides any farmer in this country who employs 7 or less highly skilled workers on a full-time year-round basis will be excluded from coverage under this bill. This bill is directed at the big farmer and at the corporate farmer. This bill is not intended to hurt the small farmer of America. We must recognize this big corporate farmer as part of the overall quilt of the American economy. So you cannot exclude him any longer.

We had testimony before our committee on what is happening in farming and the degree of automation in harvesting crops. We had one witness testify on how they now put a big inverse umbrella under the cherry trees and pulled up a big tractor with an arm extended which locks in around the trunk and shakes this trunk of the tree and the cherries fall down into this umbrella and are scooped up and put in the trucks and frozen.

We have had testimony where they now pick lettuce with huge machines going down the field with sensitive metal fingers or feelers, each feeling this head of lettuce. If the lettuce is ready for picking, they lock in and pick it. If the lettuce is not ready for picking, it moves on.

So we are talking here about highly automated production. I say to you that if you do not bring these agricultural workers into this bill, you are going to deny them the opportunity to share in the wealth and the bounty of this great free capitalistic system.

And so, Mr. Chairman, we have carefully considered each one of these industries. I doubt if any committee of the Congress has gone as deeply into the

personal problems of every one of these industries as has this particular subcommittee.

Mr. Chairman, the gentleman from Pennsylvania [Mr. DENT] has taken great pains to make sure that these problems are reflected properly in this legislation.

So, Mr. Chairman, in supporting this legislation, let me conclude by telling to the Members of the Committee a story which I recently told a delegation of Japanese merchants who visited my office.

They urged me to support the cultural exchange programs, because they were concerned that the Communists were making great inroads in Japan. This was shortly after the visit to Japan of President Eisenhower. These people said, "Look what is happening. We are having all of these uprisings over there and the Communists are making great gains in our country. We feel we ought to have greater cultural exchanges."

I said, "Gentlemen, I support those programs, but that is not your answer. Communism cannot survive where people are earning a decent living. Communism breeds only upon poverty. We see this in every sector of the world."

Mr. Chairman, the Secretary of Defense the other day in Montreal elaborated upon this so magnificently when he reminded us as to where the unrest is throughout this world—those areas of the world where people are exploited. What has given this country its magnificent employment and stability where today we stand as a great symbol of hope for the entire world? That is done through this Fair Labor Standards Act.

Mr. Chairman, we have moved cautiously since 1938 from one plateau to another plateau, until today our economy is extremely healthy.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

Mr. DANIELS. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. PUCINSKI. Mr. Chairman, today we are able to confidently say that certainly every American ought to earn \$1.40 an hour in 1967 and \$1.60 an hour in 1968.

So, Mr. Chairman, I say that a vote for this legislation is a vote of confidence in the free capitalistic system. It is a vote of confidence and belief that, indeed, we have the wherewithal and the American industry has the wherewithal to guarantee every American working man at least a salary that under our other laws here which we have set as a pace for our poverty program, he is entitled. Because, Mr. Chairman, even when we reach this \$1.60 an hour plateau, about what are we talking? We are talking about an annual salary of \$3,328 a year.

Why, Mr. Chairman, this Congress has passed legislation in the antipoverty bill which sets the poverty level at \$3,000 a year.

Mr. Chairman, what a sad reflection it is upon our system when we have breadwinners in America working in fields, working in processing plants, working in laundries, and yes, in restaurants, working a 40-hour week and not earning

enough money to meet the minimum standards so that they actually have to be placed on public assistance in order to supplement their earnings.

Mr. Chairman, I say as a member of this committee, that I am proud to come before this House and urge the adoption of this historic legislation.

Mr. BELL. Mr. Chairman, I yield such time as he may require to the gentleman from Minnesota [Mr. LANGEN].

(Mr. LANGEN asked and was given permission to revise and extend his remarks.)

Mr. LANGEN. Mr. Chairman, the bill before us today has been hailed by some as a compromise, by others as a watered-down version of original requests, both with the hope of garnering more votes for the bill. Some of my colleagues have even said that this bill no longer poses a threat to segments of the population where hue and cry was heard not so long ago, such as for farmworkers and small businesses up and down Main Street, U.S.A. However, Mr. Chairman, the dangers inherent in previous proposals are still here today, representing a foot in the door that will surely lead to the all-inclusiveness of the original requests if enacted into law.

Actually, this bill before us, in its present form, remains a threat to rural America and many other small businessmen and could mean fewer jobs across the Nation. It would certainly accelerate the demise of many of our farmers and small businessmen along the main streets of our small towns.

My office has been flooded with letters from those who would be adversely affected by this bill. These people are bewildered over a government that would create problems to the extent of threatening their very existence. The voices of these people must be heard and heeded, Mr. Chairman.

As pointed out in the individual views that accompanied the report on this bill, the proposed increase in the minimum wage for presently covered employees would amount to 28 percent in two steps, and on newly covered employees, it would amount to 60 percent over the next 4 years. These percentages do not even cover the escalating effect of higher minimum wages when businesses must maintain established wage differentials. Also, these percentages do not include or measure the impact of compulsory cost increases to the employer such as workmen's compensation, unemployment insurance benefits, or the increase in both the salary base and tax rates of social security which the employer must bear. The result, of course, will be pressure for higher retail prices to the consumer and fewer man-hours of employment where reduction in employee staff is vital for survival.

This administration has had much to say about price-wage objectives, and we have been fed a figure of 3.5 percent as the limit to which either prices or wages should be increased. This bill, however, is completely inconsistent with the price-wage objectives. This is difficult to un-

derstand when you consider that the administration favors this bill.

The small businessman will find himself faced with skyrocketing labor costs. He will be forced to add to the inflationary spiral by raising prices, or he will get along with less help. For many it will mean closing the doors for good, and the net effect of this legislation will be fewer jobs for our people in smaller communities.

FARMER HIT AGAIN

With American agriculture already in trouble, it is inconceivable that Congress could add to the farmer's dilemma by increasing his costs and decreasing his net profit, further accelerating movement off the farm. Inclusion of agricultural workers under minimum wage laws is not based on the practical conditions that exist in farming. It would also take a whole army of investigators to enforce such a law on our farms, and if there is one thing the farmer does not need, it is another Federal snooper spying on him. What he really needs is greater income, not another device to hold his income down.

It is impossible to understand how the farmer can come under provisions of minimum wage laws at all, considering his volume of business. Coverage of a retail business is based on volume of sale—currently \$1 million or more a year. Under this bill, of course, that volume figure will be reduced to \$500,000, and in 2 years to only \$250,000, which takes in many more of our smaller businesses across the Nation. Even using the \$250,000 figure, an enterprise which does less than that amount of business in sales per year will not be subject to the act. Yet, a farmer who does, say, only \$20,000 in sales might come under this bill's provisions. This is not fair nor is it equitable.

Add to this the confusion over just what agricultural worker will be covered and who will not. The bill is unclear as to whether a tenant farmer or a sharecropper is covered, for instance. Both normally work for a percentage of the crop, making it practically impossible to correlate their earnings against the total number of hours worked and the minimum wage.

With the Department of Agriculture having displayed numerous endeavors to lower farm prices, it is inconceivable that Government would now take this action to increase his costs of production to further depress his already inadequate income.

The agricultural section, along with others, should be eliminated entirely from this bill.

There are other discrepancies, as well. For instance, overtime penalties are excluded for hotel and motel employees, but are applied to hospital employees. The additional cost to hospitals, at the very moment when their services will be taxed to the limit under medicare, will be considerable.

Mr. Chairman, it is one thing to show concern for the marginal employee who might benefit from a higher minimum wage, but it is quite another when you consider the consequences of escalating

the entire wage structure because of it. It is also quite another story when you consider that many of these marginal employees will not receive higher wages; they will lose their jobs.

The Congress does not create more jobs through legislative action. And in the case of this bill, such action would eliminate jobs and force many of our small businesses, including American farmers, to give up in despair. I respectfully urge that we take another look at this bill and come up with something that will help the economy, not contribute to its downfall.

Mr. BELL. Mr. Chairman, I yield 10 minutes to the gentleman from California [Mr. GUBSER].

Mr. GUBSER. Mr. Chairman, as many of you know, I made my living as a row crop farmer before I came to the Congress. To a very limited extent I am still a fruit producer in the State of California although my operation is so small I would be exempt from the agricultural minimum wage provision of the bill as it is presently written.

Some of you who have been here a while will remember the first speech I made, my maiden speech on the floor of the House of Representatives, which had to do with the subject of farm labor. In a sense and in some small circles, I have become a minor spokesman for specialty agriculture in California. With that background, I presume most of you will be surprised when I say that I have taken this time today to express my strong support for the provisions of this bill which will provide a minimum wage for agricultural employees.

I do have reservations. The bill should go further and we should not have exemptions for those farmers who employ less than 500 man-days of agricultural labor in any one quarter.

At a later time I will offer an amendment to strike that provision from the bill.

I would like to talk for just a moment to the Representatives of the agricultural States which for one reason or another have lagged behind my own State of California insofar as the benefits paid to agricultural workers are concerned.

I think perhaps a little look at what has happened in California might be good for all of us to consider at this time. It so happens this bill, if enacted, probably will not affect a single California farmer because our wages are well above what this bill would provide. Without a law our wages have far exceeded the meager minimum of this bill.

To know something of what is paid agricultural labor in California let us look at the actual payroll reports of the DiGiorgio Fruit Corp. for February 18 of this year, 1966.

For pruning the grapes in the famous area of Delano, a piece rate ranging from 5½ cents to 8 cents per vine was paid. Every worker in the field regardless of what he produced was guaranteed \$1.40 an hour.

In one of these crews, according to the payroll report of February 18, only 8 percent received \$1.40 an hour; 46 percent of them made between \$1.41 and \$1.78 an

hour, and another 46 percent made from \$1.86 to \$2.76 per hour.

In a second crew on that same payroll in Delano 18 percent made \$1.40 an hour, 47 percent earned between \$1.44 and \$1.76, and 35 percent earned between \$1.81 and up to \$2.77 an hour.

Another crew had no one who earned as little as \$1.40 an hour; 20 percent of them made between \$1.66 and \$1.74 an hour; 80 percent made between \$1.83 and \$2.39 an hour.

For the pay period of last September 8, 1965, the workers who were picking the grapes during this famous Delano grape strike earned an average of \$2.46 an hour.

The employees of Schenley for the entire grape picking season averaged \$2.72 an hour.

So you can see that this minimum wage bill is not going to hurt California agriculture.

I would point out to my friends from other parts of the country that higher wages and better working conditions for agricultural laborers are coming to your area just as they came to California. Because, as you see, we have them even without a minimum wage law. They are coming. It is a fact of life. The longer the rest of the agricultural world drags its feet, the tougher it is going to be.

You will have to mechanize, as we have done in California. You will have to improve your technology and increase your yield and do the things which will allow you to make labor a smaller part of your total overhead.

This has been done, I am proud to say, in our State of California. So I think the rest of the Nation had better recognize that the minimum wage is a principle that is established and is here to stay. The improvement of conditions for agricultural workers is certain to continue.

Mr. BELL. Mr. Chairman, will the gentleman yield?

Mr. GUBSER. I am happy to yield to the gentleman from California.

Mr. BELL. The gentleman knows about wages in California. I wonder if the gentleman also knows the hauling disadvantages which California has in competing with other States. Yet despite the fact that it has raised the minimum wage and it has raised wages of people in California and it has an unfavorable hauling condition in that it has higher costs, still it is able to carry on and continue its agricultural programs. In fact, it is one of the largest producers in the Nation.

Mr. GUBSER. I certainly thank the gentleman for bringing out that point. He almost read my mind, because it is exactly the next point I wished to make. In California we have discriminatory freight rates. Compare the freight rates on the hauling of commodities from Florida to Chicago and California to Chicago and note the disadvantage to California.

We have absorbed the highest wages paid agricultural labor in all the United States, with the exception of Hawaii. We have absorbed all of those things. We are being struck right and left today, even though we lead the Nation in improving benefits for workers.

How long can you ask California farmers to go on competing with people in other States who pay 75 cents an hour? That is why, my colleagues, I say that the limitation to 500-man-days in any one quarter is unfair. It particularly helps the farmers in other States who are competing with Californians and who have never paid anything like what California farmers pay their agricultural employees.

That is why I shall offer an amendment tomorrow to strike the limitation from the bill. I sincerely hope you will agree, when you vote upon my amendment, that a minimum wage should not apply to one fellow on his hands and knees hoeing sugarbeets or doing some menial task on one side of the road, while another man doing the same job in the same climate on the other side of the road gets more pay doing the same job. Such action is discriminatory against the worker. It is discriminatory as between farmers, and it is particularly discriminatory against California farmers.

Agriculture is now a highly technical business and it can stand a minimum wage. I for one welcome it. All I ask is that we make it fair and equitable and let it apply equally to all 50 States, and to all farmers.

Mr. BELL. Mr. Chairman, will the gentleman yield?

Mr. GUBSER. I am happy to yield to the distinguished gentleman from California.

Mr. BELL. I wish to thank the gentleman for his contribution and to say that I thought what he has stated is very accurate and to the point. It goes right to the heart of the problem. I think we should even this thing out and make it less harmful for some States, as the gentleman has stated.

Mr. DANIELS. Mr. Chairman, I yield as much time as he may require to the gentleman from New Jersey [Mr. KREBS].

(Mr. KREBS asked and was given permission to revise and extend his remarks.)

Mr. KREBS. Mr. Chairman, I rise in support of H.R. 13712.

[Mr. KREBS addressed the Committee. His remarks will appear hereafter in the Appendix.]

Mr. DANIELS. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. RYAN].

(Mr. RYAN asked and was given permission to revise and extend his remarks.)

Mr. RYAN. Mr. Chairman, this afternoon we have before us a historic piece of legislation. This legislation will promise agricultural workers a minimum wage for the first time in history. This legislation will help workers in restaurants, workers in hotels, workers in transit and taxi cab systems, workers in laundries, in hospitals and in small stores, all for the first time. It covers 7 million new workers.

It is also legislation which will benefit the people of New York City by indirection. Industry has been fleeing from the city of New York in search of lower wages. This problem is particularly

acute in the textile industry. By raising the minimum wage around the country this legislation will help keep industry in the city of New York.

So I believe this legislation should be supported, because it helps the people of my city indirectly and because it directly affects 7 million Americans.

But I do not believe for a minute that we should be satisfied with the bill. I have several points to make in connection with it. First, it does not provide a real minimum wage. Secondly, it does not take effect rapidly enough. Thirdly, it does not cover enough people.

The bill which we will vote on today would establish a wage of \$1 an hour for newly covered employees, which will become effective on February 1, 1967. This would gradually rise to \$1.60 an hour by February 1, 1971. For those who are presently covered, it would provide an hourly wage of \$1.40 an hour by February 1, 1967, and to \$1.60 by February 1, 1968.

For the people of New York City, \$1.60 an hour is not a decent wage. According to the Office of Economic Opportunity, a minimum yearly income of \$4,000 is needed for a family of four to live above the poverty line. At \$1.60 an hour a man who works 40 hours a week, 52 weeks a year, will earn less than \$3,500 a year. So the fact is that for the people of New York City an hourly wage of \$1.60 is not a minimum wage. It is still a poverty wage.

Let me make this point a little more dramatically. New York City, like other cities, with the help of the State and the Federal Governments, offers supplemental assistance to families whose wage earners do not bring home enough money to keep the family afloat. Some of this money may be provided through the aid to dependent children program. Some comes from other programs.

Today there are 9,000 families which are receiving supplemental income in the city of New York. Let me repeat that. The New York City Department of Welfare has concluded that 9,000 full-time workers, people who are regularly employed, full time in the city of New York, do not earn enough to sustain their families.

In the end, it is the city, the State and, yes, the Federal Government which must make up the difference. Those 9,000 families cost the American taxpayers \$12 million a year. Approximately \$3 million of that sum is paid by the Federal Government.

What kind of a minimum wage are we talking about when its recipients remain on welfare. If people who earn the minimum wage must still receive welfare checks, then it is clear that they are receiving what amounts to a poverty wage.

The Welfare Department of the City of New York maintains that most of the 9,000 families will still require supplemental income if the minimum wage is raised to \$1.60.

So I believe that we really should be talking about a minimum wage today which insures all workers a living wage. According to the Office of Economic Opportunity, a living wage for a family of

four in New York City is \$4,000. To earn \$4,000 a year, a man who works 8 hours a day, 5 days a week, 52 weeks a year, would have to earn \$2 an hour. Therefore, what we really should be talking about today is not about \$1.40 next year, and \$1.60 a year after that, but \$2—a minimum wage of \$2 an hour, and \$2 an hour now.

Mr. Chairman, last summer the Education and Labor Committee produced a bill which came closer to matching this \$2 figure. That bill would have given newly covered workers \$1.75 an hour by 1970. Previously covered workers would have received \$1.75 an hour by 1968. Inflation should not be used as an excuse for not providing it. On page 91 of the report of the President's Council of Economic Advisers, some exceptions to the "general guideposts" are listed. One exception is "where wages are particularly low—that is near the bottom of the economy's wage scales." Thus, the President's Council of Economic Advisers has indicated that the wage-price guideposts should not be applied to the creation of a minimum wage.

Finally, Mr. Chairman, I am disappointed that this bill does not cover more agricultural workers.

The present bill covers only those agricultural workers whose employers used more than 500 man-days of agricultural labor in any calendar quarter of the preceding year. As a consequence, only 485,000 new agricultural workers would receive benefits under the new law. Once again, I would have preferred the provision in last year's bill, which would have extended coverage to all workers employed by employers using more than 300 man-days of agricultural work in any quarter.

Mr. Chairman, I have pointed out why we should not be content.

But it is important that this bill be passed, and be passed tomorrow when it is voted upon, as a recognition that \$1.25 an hour simply will not do.

In this great country of ours no wage earner and no family should be receiving an inadequate wage. No family should be required, where there is full-time employment in the family, to still maintain itself on the welfare rolls.

In closing, Mr. Chairman, I congratulate the committee for its fight for this bill today, and especially the distinguished chairman of the subcommittee, the gentleman from Pennsylvania [Mr. DENT]. I urge the passage of the bill.

Mr. GLENN ANDREWS. Mr. Chairman, will the gentleman yield?

Mr. RYAN. I yield to the gentleman from Alabama.

Mr. GLENN ANDREWS. The gentleman has made the statement that he objects to this bill because New York City will lose some of its industries. Where does the gentleman anticipate these industries are going to be lost?

Mr. RYAN. The gentleman did not listen to what I said. I said we need an increase in the minimum wage, so that cities such as New York City will not lose industries to low wage areas.

Mr. GLENN ANDREWS. Is that the purpose of the bill, to keep New York City from losing industry to lower wage areas?

Mr. RYAN. One purpose of the bill is to have a uniformity of wage levels throughout this country.

Mr. GLENN ANDREWS. So that there will be an advantage to New York City, and not other areas?

Mr. RYAN. It is a disadvantage to any city or to any part of the country when it faces the kind of cutthroat competition provided by "sweat shop" labor. This is one thing we should be addressing ourselves to in this Congress. This is one of the reasons why the bill is so important.

Mr. BELL. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. QUIE].

(Mr. QUIE asked and was given permission to revise and extend his remarks.)

Mr. QUIE. Mr. Chairman, my purpose in rising today is to make inquiry of the gentleman from Pennsylvania [Mr. DENT], who is the chairman of the subcommittee which considered H.R. 13712 and its author, in regard to section 240(a)(1)(A) and (B) on pages 40 and 41 of the bill.

Some representatives of the dairy industry have been in contact with me. They understand, as I also understand, that the dairy industry would be a prime example of an industry described in section 204(d)(1)(A), that is, an industry found by the Secretary:

To be characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of agricultural or horticultural commodities from farms if such industry is engaged in the handling, packing, preparing, storing, first processing, or canning of any highly perishable agricultural or horticultural commodities in their raw or natural state.

They are concerned, however, lest the Department should construe the meaning of this bill so that they would come under subsection (B) and therefore be denied the 14 workweeks exemption of the overtime provision as it applies herein under (A).

My question to the gentleman is: Will the dairy industry be considered as an industry described only in (A) and not under (B), as would be my understanding?

Mr. DENT. Mr. Chairman, in my opinion the dairy industry would come under (A) and not under (B).

Mr. QUIE. I thank the gentleman.

My purpose in rising is to develop legislative history so that at any time there is a question in the future within the Department this would also be their interpretation.

I thank the gentleman.

Mr. BELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Nebraska in making some statements during debate on the rule made some remarks which I feel are inaccurate, and I feel the Record should be corrected on this point.

I believe there was an inference that the Council of Economic Advisers and the administration actually do not favor this bill.

I want to say that this is completely inaccurate. The Council of Economic Advisers does favor the bill. I have sub-

mitted for the RECORD a letter from the Council, and I quote from part of it on page 2, which reads as follows:

The minimum wage increase proposed by H.R. 13712 for those already covered by the FLSA reflects appropriate concern for the standards of noninflationary behavior of wages. As you know, the Council's wage guidepost provides for a specific exception in those cases "where wages are particularly low—that is, near the bottom of the economy's wage scales." The wages of those actually affected by minimum wage protection obviously fall into this category of exceptions to the guidepost, and therefore should move up at a more rapid pace than the economy's productivity trend.

The letter goes on to endorse the bill. Also I might add that the letter is written by Arthur M. Okun, acting chairman.

The gentleman also made reference to the President's message. The inference was that maybe the President did not support this. The quote I think is taken out of context by confusion and involves the President's statement on a statutory work week. I want to quote that. The President says at the end of the statement:

I do not think the time for change in the law has come, except with respect to excessive overtime. Careful attention to these developments is nevertheless appropriate and desirable. I am accordingly requesting the National Commission on Technology, Automation, and Economic Progress to include on its agenda full consideration of the matter of "work periods."

Just above that, in the previous paragraph, he says:

The developing pattern of collective bargaining reflects changes which are taking place in the practices regarding the length of work periods—daily, weekly, annually, and in terms of the individual's work life.

So you see he was talking about the statutory workweek.

The gentleman also refers to agriculture. Frequently he wants to take agriculture out of context for some reason and say accordingly that the Roosevelt bill, if you take the agricultural aspect away from it and take the agricultural provision away from the Dent bill, the Roosevelt bill actually does not cover as many areas as the Dent bill and, therefore, the Dent bill covers more and is more of a controversial type of legislation. I want to point out that if you were to leave in agriculture, the Roosevelt bill would cover approximately 800,000 more people. Further than that—and this is left out—the Roosevelt bill does not cover Federal service employees, which the Dent bill does cover. That accounts for 665,000. If you were to take that feature out and leave the agricultural in, the Roosevelt bill would cover substantially more people than would the Dent bill. I just wanted to correct these points, Mr. Chairman.

Mr. Chairman, I have no further requests for time.

Mr. DANIELS. Mr. Chairman, I yield such time as he may require to the gentleman from California [Mr. BURTON].

Mr. BURTON of California. Mr. Chairman, I should like to add my own commendation to those of my colleagues on the subcommittee and full committee with reference to the efforts of our distinguished subcommittee chairman, the

gentleman from Pennsylvania [Mr. DENT]. The fruits of his effective labors have reflected themselves in the tone of the discussion and the debate today. I am sure that they augur well for the successful conclusion of, and action by, this House on this minimum wage bill tomorrow.

The bill does not do as much for as many as quickly as a number of us would prefer. However, it does provide considerable help to a great number of those working men and women in our country who today are working without the benefit of a national statutory minimum wage.

I believe that as the reflection of an accommodation to the varying points of view of the members on both sides of the aisle on the full committee as well as the individual Members of the House, the committee has collectively made a wise judgment to advance a proposal that is not as remarkable as it could be but certainly a substantial improvement over the current law, and one that has the maximum possibility of approval by this body.

Mr. Chairman, I believe when we finish our labors on tomorrow we will be able to point with some fair measure of pride as to our accomplishment.

Mr. HAGEN of California. Mr. Chairman, will the gentleman yield?

Mr. BURTON of California. I yield to my colleague, the gentleman from California [Mr. HAGEN].

Mr. HAGEN of California. Mr. Chairman, I would like to join my California colleague in commending the committee upon most of its actions. Of course, the gentleman commends the committee upon all of its actions, and he commends the committee particularly upon the coverage of farm labor. I want to say that in California, on a piece rate basis at least, we pay wages greatly in excess of the minimum wage established by this bill.

Mr. Chairman, I would hope that there would be some clarification tomorrow as to who exactly is covered in the area of farm labor—permanent versus migratory employees and so forth—and I would hope that some consideration might be given to a possible change in these overtime exemptions in connection with food processing and in connection with the canning industry.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BURTON of California. Yes; I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. First, Mr. Chairman, I want to congratulate the committee. I sat on this committee when the last minimum wage bill came up a few years ago and I know you cannot satisfy everyone, and I know that it does not make any difference what kind of bill you are writing that this is true.

Mr. Chairman, I congratulate the committee on having done as good a job as it has toward satisfying so many people. I believe the results on the final rollcall will show that they have really done a good job in working on this bill.

Meanwhile, I would like to ask a question on behalf of my colleague the gentleman from Iowa [Mr. HANSEN] who

could not be here today. He has a number of people who are interested in the nursery business in the district which it is his honor to represent. He asks this question, and I would like to ask the chairman of the subcommittee the question: Will those engaged in storing and packing nursery stock still have available to them the 4-week seasonal exemption if this bill becomes law?

Mr. DENT. Mr. Chairman, will the gentleman from California yield to me for the purpose of responding to the question of the gentleman from Iowa?

Mr. BURTON of California. I yield to the gentleman from Pennsylvania.

Mr. DENT. The gentleman from Iowa [Mr. HANSEN] has approached me with that question. I discussed the question with representatives of the Bureau in the Department of Labor which handles the minimum wage legislation and they told me that the storing and packing of nursery stock is presently considered a seasonal industry and is so treated under 7(b) and 3 of the present act.

Therefore, I would assume if it is covered under the present act, because of an interpretation as to the criterion of seasonal, then they would be exempt for the same reason under this act.

Mr. SMITH of Iowa. I thank the gentleman from California for yielding.

Mr. DENT. Mr. Chairman, will the gentleman yield to me?

Mr. BURTON of California. Yes.

Mr. DENT. Mr. Chairman, I do not like to take the time of the gentleman because I know he has worked hard on this bill, but I want to say at this time that for the first time during our deliberations upon minimum wages—and I have been active in this field for quite a number of years—a new Member of Congress; namely, the gentleman who has the time on the floor now [Mr. BURTON of California], brought into consideration some ideas that very frankly were new to me and were new to other members of the committee. The gentleman from California was instrumental in giving consideration to Federal employees such as blue collar workers who are not covered by civil service and other Federal statutory employees and those under the classification act.

After investigation of the gentleman's interest, they proved that there was a definite need in this area for coverage. You will find we do cover them in this bill.

I might say, also, the gentleman was one of the men on the committee who I asked to make a special effort to get the reaction from hospitals and related institutions and he brought back a very fine supporting report.

I would be remiss if I did not say at this time how appreciative I am of the gentleman's fine work in connection with this legislation.

Mr. BELL. Mr. Chairman, will the gentleman yield?

Mr. BURTON of California. I yield to my colleague.

Mr. BELL. Mr. Chairman, I would wholeheartedly agree with what the gentleman from Pennsylvania is saying about my colleague, the gentleman from

California [Mr. BURTON]. I can say that he has contributed substantially to the work on this bill and has contributed substantially and capably and intelligently to the work of the full Committee on Education and Labor.

Mr. DENT. On behalf of my colleagues and myself, I thank the gentleman from California [Mr. BURTON] because he has done a magnificent job.

Mr. BURTON of California. I thank both of my colleagues very much.

Mr. LONG of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. BURTON of California. I yield to the gentleman.

Mr. MEEDS. I would like to take this brief time, although I will be involved in an amendment tomorrow on a portion—a small portion—of this bill with which I do not agree as the bill is now written—but I would at this time like to point out to the Members of the House although I have been here for a short time I have never received more courteous treatment from anyone than I received from chairman of this subcommittee, the gentleman from Pennsylvania [Mr. DENT], and from all the members of the subcommittee. Mr. Chairman, the members of this committee were gracious enough to let me come to their meetings and to explain fully a proposal that I had. They took their time and attempted to understand my problems and they gave me every consideration.

While I guess some of them still do not agree with me, I certainly appreciate all the courtesy that they have shown me and particularly do I thank the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. DENT].

Mr. BURTON of California. Mr. Chairman, one statement made by my colleague, the gentleman from Alabama, I thought was most appropriate and correct. That statement was that we enacted a minimum wage bill and then by the time the escalating periods transpired, much of the impact of the legislation was lost.

In this regard, the gentleman's observations were most accurate.

But this is neither the time nor the place, but perhaps it is the forum to note that someday the Congress will decide in its wisdom that the minimum wage rate be based on a percentage of the average national wage corrected automatically on an annual or semiannual basis so that the policy in fact that we adopt at the time that we act on a minimum wage proposal is not lost by the ever-increasing cost of living and that the effect of the legislation will not deteriorate in their relationship to the wages paid to others in the labor market who receive wages in excess of the minimum.

So in that one narrow connection, I agree completely with the gentleman from Alabama. I think his observation is most pertinent. I look forward to the day not too many years from now when we will establish this automatic wage escalation concept in a minimum wage bill; so that when we take an action it will have full meaning—not only on the day it is enacted—but for all time to come.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The gentleman from California has consumed 10 minutes.

Mr. BELL. Mr. Chairman, I yield such time as he may require to the gentleman from Florida [Mr. GURNEY].

(Mr. GURNEY asked and was given permission to revise and extend his remarks.)

[Mr. GURNEY addressed the Committee. His remarks will appear hereafter in the Appendix.]

[Mr. GLENN ANDREWS addressed the Committee. His remarks will appear hereafter in the Appendix.]

Mr. HATHAWAY. Mr. Chairman, the minimum wage bill is one of the most significant measures to be acted upon by Congress this session. It is a progressive bill. It is a well-considered bill. And it is a necessary bill.

The original purpose of the Fair Labor Standards Act was to eliminate, as quickly as possible, below-standard labor conditions within the scope of Federal jurisdiction over interstate commerce. Its goal was to raise living standards without substantially curtailing employment or earning power.

But in the 28 years since the original act was passed our economy has undergone far-reaching changes with which this act has not kept pace.

Although the labor movement has properly assured millions of American workers a wage commensurate with their contribution to our national wealth and economic greatness, other millions receive earnings which are unnecessarily and disproportionately low.

Among the heads of families presently covered by this act, only 5 to 10 percent had annual incomes under \$3,000 in 1963. But in industries with little, if any, coverage, these proportions rise to 33 to 49 percent.

There can be little doubt that there is a direct correlation between poverty earnings and workers excluded from the protection of the Fair Labor Standards Act.

This act must be brought up to date. It must adapt to, and reflect, current and future economic factors. I would consider its passage as important a factor in reducing the level of poverty in this country as the poverty program itself. It is outrageous that 40 percent of all children living in poverty are from families which have a worker who is fully employed throughout the year, and this fact is even more shocking when we realize that business profits are the highest in history and have been steadily rising since the late 1950's.

The 89th Congress is perhaps the most productive in American history in terms of passage of progressive legislation.

Its objectives have been to achieve as full employment as possible and to guarantee to all Americans, regardless of background, sex, color, or religion, equal employment opportunities.

This decade has witnessed the passage of many historic pieces of legislation. Manpower Development and Training Act programs have made it possible for

thousands of men and women to help themselves become productive, taxpaying citizens. Federal grants and scholarships are now allowing many young people to acquire a college education not available to them a few years ago because of the economic circumstances in which they grew up.

These measures are highly responsible steps in the right direction, but they can be meaningless if they train workers who are employed at substandard wages.

This bill will more than supplement these programs. For it will assure us that many of the beneficiaries of these training and education programs will have an adequate and fair wage when they enter our national work force.

It is absolutely essential that the minimum standard of living necessary for the health and well-being of workers be attained. This bill, if passed, will substantially assure this objective.

In short, the Fair Labor Standards Act of 1939 has not kept pace with the unprecedented growth and prosperity with which our country has been blessed since the late 1930's. The initial commitment of this act has become unfulfilled with the passage of the last 28 years.

The time has arrived for Congress to both raise the minimum wage and extend its protection to workers in businesses and occupations not now covered by the act.

I urge the passage of the bill at this time. Unnecessary delay cannot be afforded.

Mr. ANNUNZIO. Mr. Chairman, I rise in support of H.R. 13712, the Fair Labor Standards Amendments of 1966, which is being considered by the House of Representatives today.

The Fair Labor Standards Act, as my colleagues will recall, first become the law of the land on June 25, 1938. Twenty-eight years have elapsed, and during this period of time, tremendous strides have been made under the act to improve the lot of the workingman.

The original law has accomplished all that President Franklin D. Roosevelt envisioned, and more. It has insured a "fair day's pay for a fair day's work," it has done away with starvation wages being paid to workers, it has done away with the brutally long 16- and 18-hour workdays, it has prevented the exploitation of our labor force, and it has, in its far-reaching effects, championed the cause of every working man and woman in our Nation today.

We all know that the act has been amended and updated, as the changing times have demanded. Today, once more, we are faced with the compelling need to update the original law.

The distinguished chairman of the General Subcommittee on Labor, Hon. JOHN H. DENT, from Pennsylvania, and the members of his subcommittee, have done a truly outstanding job in drafting H.R. 13712. I wish to congratulate Congressman DENT on his assiduous efforts which produced the sound and useful piece of legislation we have before us today. The gentleman from Pennsylvania [Mr. DENT] was instrumental in reconciling all the various and divergent interests which were pressing for changes, he was responsible for fashion-

ing a workable bill, and contributed much to gaining its approval by the full Committee on Education and Labor and the Rules Committee.

The progress we have already made under the Fair Labor Standards Act must continue unhampered if we are to insure to all of our working people the fruits of their honest labor.

President Johnson, in his state of the Union message last year, said:

Many American workers whose employment is clearly within the reach of this law have never enjoyed its benefits. * * * We must extend minimum wage and overtime protection to them.

Mr. Chairman, I share our President's views, I wholeheartedly support H.R. 13712, and I urge that my colleagues do likewise, in order that we may insure for millions of our working men and women greater security and greater economic freedom.

Mr. DENT. Mr. Chairman, I have no further requests for time.

Mr. BELL. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, pursuant to the rule the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Labor Standards Amendments of 1966".

Mr. DENT. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. PRICE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 13712), to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE TO EXTEND

Mr. DENT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

COUNSELOR AIDS IN THE POVERTY PROGRAM

(Mr. FARNUM asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. FARNUM. Mr. Speaker, recently I had the opportunity of attending a graduation ceremony for several persons who have not only learned to help themselves, but are now undertaking to help others. These people had just finished a training course for counselor aids in

the poverty program. This course was sponsored by the Oakland County Commission for Economic Opportunity in cooperation with Oakland County Community College.

The graduates were: Margaret Alloy, Barbara Beardsley, Christine Biedle, Clara Black, Evelyn Gettings, Mattie Green, Melvin Massey, Georgia Nelson, Mayronnie Oldham, John Rawlings, Allen Stevens, and Helen Wineman.

I had an opportunity to address this group. But I believe that Mr. Massey, as spokesman for the group, gave a much more eloquent talk which I feel expresses the entire spirit and purpose of the better war—the war on poverty.

Mr. Speaker, under unanimous consent I include this stirring speech in the RECORD:

UPON GRADUATION

As our minds turn back to those days of initial learning, we contemplate the richness of the experience. We reflect upon the ideals we have been taught—ideals which will help us more aptly apply ourselves to the tremendous task ahead. This is the task of helping people to help themselves so they may all become what we know in our hearts they truly are—men, women and children fit for today's society and worthy of its rewards regardless of how long their talents and their abilities may have been obscured by unfortunate conditions, which, until now, have been beyond their control.

Each of us, in his or her own way, has been involved in an intense self-research, striving to better understand the individual motivation which brings us to do battle with the greatest foe our democracy has ever faced—"The Evil of Poverty." And all of us have arrived at the common knowledge that, unlike the Robin Hood of ancient fables, poverty is a thief that robs both the rich and the poor while providing for the betterment of neither.

We thank God for the perception of the American people—voters and politicians alike—whose awareness of, and concern for, the mounting menace of poverty has led to the enactment of measures, to stem its destructive influences. As a result of these measures, we have been chosen to be in the front line of the attack and we carry into the battle the sure conviction that the war on poverty is well conceived, ably executed and—if there is any truth at all in the adage that "right conquers all"—positive of success.

Armed with the powerful twin tools of knowledge and ideals—both instilled in us by a most able instructor—we go forward to provide the realizations of the dreams of a vast segment of our population. We are quietly determined to wage a successful battle against the greatest foe which today faces America or any country—poverty! Recognizing the magnitude of our assignment, and knowing it requires such positive qualities as courage, fidelity, discipline and self-sacrifice, we are resolved to direct our dedicated efforts toward assuring the finest moment of modern civilization—the time when the burning social scourge called poverty is forever eliminated.

FEES IN CONNECTION WITH PROJECTS FOR NAVIGATION AND FLOOD CONTROL

(Mr. O'NEAL of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEAL of Georgia. Mr. Speaker, come with me in the mind's eye as we follow a man and his family on an after-

noon's fishing trip to one of the 95 reservoir lakes formed by Federal construction of hydroelectric power dams and accompanying navigation and flood control benefits.

By the Flood Control Act of 1944 and the Land and Water Conservation Fund Act of 1965, this Congress has clearly assured our friend and his family that the water areas of every one of these reservoirs "shall be open to the public generally, without charge, for boating, swimming, bathing, fishing, and other recreational purposes."

Because I am more familiar with it, we will follow our friends to Lake Seminole, formed by the Jim Woodruff lock and dam, where thousands of residents of Georgia, Alabama, and Florida, of all walks of life, have been enjoying the wholesome, relaxing and supper producing recreation for many years.

Our friend puts his bateau or other small boat on top of the car or on a small trailer and with "hope springing eternal" drives out to the vicinity of his favorite fishing spot, near which the Corps of Engineers years ago provided a convenient but inexpensive boat ramp in a clearing of the woods at the water's edge.

It is miles from the nearest habitation. There is no fence around the property, no employee on duty, no building of any description, no picnic tables, no cooking grate, no restrooms—as the saying goes—"no nothing" but the gently moving weeds and grass nearby and the wind sighing in the pine trees. This is merely a place to make it possible for this citizen and others to enjoy the use of the water without charge as assured by Congress.

But wait, Mr. Speaker. We notice a sign tacked on a tree. In all of the years this lake and this ramp have existed, it has not been there before, and our friend reads it with much interest.

He is shocked and hurt to discover that the Corps of Engineers will begin on May 30 charging 50 cents per day and up to \$7 per year to use this immediate land area and the little boat ramp.

He is stung by the thought that his Government would do such a thing—this cheap, sleazy trick you might expect of sharp operators—to circumvent his legal right guaranteed by act of Congress.

What does he get for his 50 cents or his \$7? He gets nothing but access to what he is entitled by the law to get free. But the Government has him over a barrel.

He has certain alternatives. He can get in his car and drive to one of the landings operated by private concessionaires who have contracts to provide all sorts of goods and services; or he can drive to one of two State parks on the shores of this 35,000-acre lake, neither of which is near his favorite fishing spot. At either place he will not be charged to launch his boat.

He can also take a chance that the Corps of Engineers will not come around to collect. This is a fairly good chance, because it will cost the Government more to collect than the receipts will realize for the land and water conservation fund.

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HIGHLIGHTS: House committee reported screw-worm eradication bill. Sen. Mondale commended fair packaging-labeling bill, to be debated today. Sen. Muskie introduced and discussed intergovernmental personnel bill.

SENATE

1. MILITARY CONSTRUCTION. Passed as reported S. 3105, the military construction bill, including an authorization to repay Commodity Credit Corporation for family housing. pp. 10973-81
2. PACKAGING; LABELING. The Commerce Committee was authorized to report during recess S. 985, the fair packaging and labeling bill (p. 10998). Sen. Long said the bill will be debated today and is expected to remain the unfinished business over the Memorial Day recess (p. 10973). Sen. Mondale spoke in support of the bill (pp. 10926-8).

3. SCHOOL MILK. Sen. Proxmire defended his special milk bill and said he was shocked by USDA opposition to it. p. 10938
4. RESEARCH ANIMALS. Sen. Brewster spoke in favor of S. 2322, to protect research animals. pp. 10944-5
5. FARM PRICES. Sen. Tower recommended S. Con. Res. 88, to prevent the executive branch from engaging in "price-cutting activities affecting agricultural products," and especially objected to export control on cattle hides. p. 10947
6. WATER POLLUTION. Sen. Muskie inserted an article criticizing the transfer of the Federal Water Pollution Control Administration to the Interior Department. pp. 10981-2

HOUSE

7. SCREW-WORM. The Agriculture Committee reported with amendment H. R. 14888, to authorize this Department to cooperate in screw-worm eradication in Mexico (H. Rept. 1555). p. 10910
8. LIBRARIES. The Rules Committee reported a resolution for consideration of H. R. 14050, to extend and amend the Library Services and Construction Act. p. 10910
9. POSTAL RATES. The Post Office and Civil Service Committee filed a supplemental report to H. R. 14904, to revise postal rates on certain fourth-class mail (H. Rept. 1543, pt II). pp. 10809-10, 10910
10. WATER RESOURCES. The Interior and Insular Affairs Committee voted to report (but did not actually report) S. 2999, amended, to repeal Sec. 6 of the Southern Nevada Project Act relating to intrastate priority for water users, and H. R. 14312, amended, to increase the authorization for continuing work in the Missouri River Basin by the Secretary of the Interior. p. D458
11. LABOR STANDARDS. Continued debate on H. R. 13712, making various amendments to the Fair Labor Standards Act, including its extension to farm labor (pp. 10810-56, 10880, 10897-8). Acted on various amendments to the bill. Rejected, 149-157, an amendment by Rep. Martin to strike the entire agricultural coverage from the bill (pp. 10823-41).
12. EDUCATION. Rep. Curtis spoke in support of the bill to implement the so-called Florence agreement, "an international agreement which provides that signatories remove tariff and other barriers to imported educational, scientific, and cultural materials." pp. 10869-2
13. INFORMATION. Rep. Rhodes, Ariz., criticized the administration's news policy and commended S. 1160, the freedom of information bill. pp. 10883-90
14. FOREIGN TRADE. Rep. Harvey, Ind., inserted, although he stated he did not agree with its conclusions, an article, "'Strategy Strings' Assailed in Food-for-Freedom Program." pp. 10879-80



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House of Representatives

The House met at 11 o'clock a.m.
The Chaplain, Dr. Edward G. Latch, D.D., offered the following prayer:
Psalm 121. I will lift up mine eyes unto the hills, from whence cometh my help.

O spirit of the living God, who art the Creator and the sustainer of life, without whose presence all our labor is in vain, we pray that our lives and the lives of our people may be built not upon the shifting sands of pretense and deceit and ill will, but upon the eternal rock of truth and goodness and love. Thou hast made us for Thyself and our hearts are restless until they find rest in Thee. Keep us dissatisfied until we find our satisfaction in Thee and in Thy love for us.

Lead us to the moral heights of personal honesty and political integrity and in all our relationships may we be mindful of Thy presence, responsive to the call of Thy spirit and ever seek to do Thy will: through Jesus Christ our Lord. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Bradley, one of its clerks, announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 14324. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and administrative operations, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 14324) entitled "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and administrative operations, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ANDERSON, Mr. SYMINGTON, Mr. STENNIS, Mrs.

SMITH, and Mr. JORDAN of Idaho to be the conferees on the part of the Senate.

A BILL TO REVISE POSTAL RATES ON CERTAIN FOURTH-CLASS MAIL

Mr. MORRISON. Mr. Speaker, I ask unanimous consent to file a supplementary report to accompany H.R. 14904, a bill to revise postal rates on certain fourth-class mail, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. DERWINSKI. Mr. Speaker, reserving the right to object, will the gentleman explain the purpose of the supplementary report?

Mr. MORRISON. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Louisiana.

Mr. MORRISON. Mr. Speaker, since the filing on May 18, 1966, of Report No. 1543, to accompany H.R. 14904, to revise postal rates on certain fourth-class mail, and for other purposes, it has been noted that the last item on page 40 of such report does not correctly show the changes made by the bill to the provisions of section 207(b) of the act of February 28, 1925, as amended (43 Stat. 1067; 45 Stat. 942).

The purpose of this supplementary report is to correct the error and show the provisions of such section 207(b), as amended by section 7 of the act of May 29, 1928 (45 Stat. 942), which are repealed by section 4(b) of H.R. 14904.

SUBCOMMITTEE ON BUILDINGS AND GROUNDS, COMMITTEE ON PUBLIC WORKS

Mr. EDWARDS of Louisiana. Mr. Speaker, I ask unanimous consent that the subcommittee on buildings and grounds of the Committee on Public Works may sit today during general debate.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

CONSUMER PROTECTION ACT OF 1966

(Mr. STALBAUM asked and was given permission to address the House for 1 minute.)

Mr. STALBAUM. Mr. Speaker, I am today introducing a bill which I have titled the "Consumer Protection Act of 1966." It is a four-section measure designed to give consumers more for their dollar in today's marketplace. It represents the first comprehensive legislative proposal to cover all fields of consumer protection.

My proposal would accomplish the following:

First. It would halt deceptive methods of packaging and labeling.

Second. It would require the full disclosure of finance charge.

Third. It would improve safety and reliability of drugs.

Fourth. It would require safety closures and better labeling of children's drugs.

Others have introduced bills covering portions of this proposal, particularly those relating to truth in packaging and truth in lending. I do believe, however, that Congress in 1966 should proceed to give consumers protection in all of these areas because all are important.

Many others have introduced legislation covering proposals on this bill or have spoken on areas covered by it. Only last Monday my distinguished colleague from Ohio, the Honorable RODNEY M. LOVE, placed remarks in the appendix on bills which he introduced. In today's Washington Post, Herblock pointed up the need for a truth-in-packaging law. In his cartoon "bunk artists" are being ordered out of the "jumbo container" by the truth-in-packaging policeman.

I urge all who have introduced or spoken on consumer legislation to join in supporting my Consumer Protection Act.

SUPPLEMENTAL REPORT ON H.R. 14904, REVISING POSTAL RATES ON CERTAIN FOURTH-CLASS MAIL

Mr. MORRISON. Mr. Speaker, I renew my unanimous-consent request to file a supplemental report to accompany-

ing H.R. 14904, a bill to revise postal rates on certain fourth-class mail, and for other purposes.

The **SPEAKER**. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

CALL OF THE HOUSE

Mr. **AREND**. Mr. Speaker, I make the point of order that a quorum is not present.

The **SPEAKER**. The gentleman from Illinois makes the point of order that a quorum is not present. Evidently, a quorum is not present.

Mr. **ALBERT**. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 110]

Anderson, Tenn.	Green, Oreg.	O'Hara, Ill.
Ashbrook	Hall	Reid, Ill.
Blatnik	Hanley	Resnick
Carter	Hanna	Rooney, N.Y.
Clawson, Del.	Hansen, Idaho	Roudebush
Colmer	Hansen, Wash.	Smith, N.Y.
Conyers	Hardy	Stephens
Cooley	Hébert	Stubblefield
Corman	Irwin	Sweeney
de la Garza	Jacobs	Teague, Tex.
Dowdy	MacGregor	Thompson, Tex.
Duncan, Oreg.	Martin, Ala.	Toll
Ellsworth	Martin, Mass.	Watts
Fallon	Mathias	White, Idaho
Farnsley	Matsunaga	Williams
Feighan	Miller	Willis
Fraser	Morton	Wilson,
Gialmo	Moss	Charles H.
	Murray	

The **SPEAKER**. On this rollcall, 376 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

COMMITTEE ON RULES

Mr. **SISK**. Mr. Speaker, by direction of the Committee on Rules, I ask unanimous consent that the committee may have until midnight tonight to file certain privileged reports.

The **SPEAKER**. Without objection, it is so ordered.

There was no objection.

JOINT COMMITTEE ON NATIONAL SERVICE AND THE DRAFT

(Mr. **RYAN** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **RYAN**. Mr. Speaker, I am delighted to learn that a number of our colleagues in the other body have today introduced a concurrent resolution to establish a Joint Committee on National Service and the Draft. Their resolution complements the one which I introduced on May 9, along with our colleague the gentleman from Minnesota [Mr. **FRASER**] and our colleague the gentleman from Wisconsin [Mr. **KASTENMEIER**].

The Joint Committee on National Service and the Draft would include seven Members of the House chosen by the Speaker and seven Members of the Senate chosen by the President of the Senate.

It would be empowered to study much more than the military. It would discuss alternative ways in which youth can serve the country—whether in international affairs as they have done through the Peace Corps, or in domestic affairs as they have done in the war on poverty and the civil rights movement. It would discuss urban problems and problems of conservation which could be attended by youth. It would discuss the educational value of national service and the need to train and make use of the talents of the millions of young men who cannot meet the physical or mental requirements of the Armed Forces.

As Senator **MONDALE** said in introducing the resolution in the other body:

The inquiry should include in its scope the entire system of use of our young manpower. Our national goals encompass far more than military requirements, important and grave as those are.

Other Senators who have joined in introducing this resolution include Senators **MONTOYA**, **YARBOROUGH**, **HARRIS**, **PROXMIRE**, **GRUENING**, **BARTLETT**, and **WILLIAMS** of New Jersey.

FAIR LABOR STANDARDS AMENDMENTS OF 1966

Mr. **POWELL**. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

The **SPEAKER**. The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 13712, with Mr. **PRICE** in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN**. Yesterday, when the Committee rose, the Clerk had read to the end of line 11, page 30, of the committee amendment. If there are no amendments to that section, the Clerk will read.

Mr. **DENT**. Mr. Chairman, I ask unanimous consent that the bill be considered as read and open for amendment at all points. I do not intend to use this in any way to curtail debate beyond a reasonable point of discussion.

Mr. **AYRES**. Mr. Chairman, reserving the right to object, so we can clarify this, I ask the chairman of the subcommittee if we will proceed in order with the bill, even though we are not reading it line by line?

Mr. **DENT**. That is correct. We will read it section by section.

Mr. **GOODELL**. Mr. Chairman, reserving the right to object, is the request that we consider the entire bill as read? Why do we not do it by title or section?

Mr. **DENT**. All the gentleman has to do is object, and we will do it the way he wants to.

Mr. **GOODELL**. Mr. Chairman, I want to do this on a cooperative basis. I think it would work better and protect everybody's interest. We do not know all the amendments that may be offered. We have no intention to be dilatory at all. We have a bipartisan bill.

Mr. **DENT**. Mr. Chairman, I withdraw my former unanimous-consent request, and now ask unanimous consent that the bill be considered by title.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Pennsylvania?

Mr. **GERALD R. FORD**. Mr. Chairman, reserving the right to object, how many titles are there?

Mr. **DENT**. There are six titles.

Mr. **SMITH** of Virginia. Mr. Chairman, to save time, I object.

The **CHAIRMAN**. The Clerk will read. The Clerk read as follows:

TITLE I—DEFINITIONS

Tips

SEC. 101. (a) Section 3(m) of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new sentence: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not—

"(1) during the first two years from the effective date of the Fair Labor Standards Amendments of 1966, by an amount in excess of 35 per centum of the applicable minimum wage rate,

"(2) during the third and fourth year from such date, by an amount in excess of 40 per centum of such rate, and

"(3) during each year thereafter, by an amount in excess of 45 per centum of such rate,

except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount."

(b) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"(t) 'Tipped employee' means any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips."

Mrs. **MAY**. Mr. Chairman, I rise in support of the principle of fair labor standards, and I certainly favor good health, efficiency, and general well-being of workers as outlined in the declaration of congressional policy with respect to the legislation before us today.

At the same time, Mr. Chairman, I find the bill, H.R. 13712, as reported by the Committee on Education and Labor, contains provisions which I feel are unrealistic in recognition of the requirements of our agricultural and horticultural industries.

Not only would H.R. 13712, as reported by the committee, have serious adverse effects on farmers, but it would also adversely affect the consumers. The inevitable effect of the provision of the bill covering agricultural workers and requiring additional overtime for agricultural processing employees would be higher consumer prices for fruits and

vegetables and other food products. This would result from the passing along of some of the increased costs and more importantly from the fact that many marginal producers would be forced out of business, resulting in a reduction in the supply of food and consequent higher prices to the consumer.

We are all aware of the fact that food prices have been rising appreciably in recent months, and this has resulted in a great deal of concern over the inflationary aspects of the problem. The bill before us today would aggravate this situation.

Fruitgrowers of the States of Washington and Oregon earnestly solicit the support of the House of Representatives for certain amendments to H.R. 13712. They are concerned with section 203 covering agricultural employees and section 204, agricultural processing employees, which would seriously curtail and probably completely eliminate the present exemptions from overtime.

Also, fruitgrowers of the States of Washington and Oregon urge that employees engaged in hand-harvest labor and paid on a piece-rate basis be excluded from the minimum hourly wage for agricultural employees.

At this point, Mr. Chairman, I would like to include in my remarks a memorandum approved by the Northwest Horticultural Council which briefly sets forth the deficiencies in H.R. 13712. I commend the memorandum to my colleagues and urge them to give it their attention prior to pending consideration of the various amendments affecting agricultural laborers.

The memorandum to which I refer follows:

MEMORANDUM: H.R. 13712—FAIR LABOR STANDARDS AMENDMENTS OF 1966

(By the Northwest Horticultural Council, Yakima, Wash., Apr. 22, 1966)

This Bill would, among other things, bring agricultural laborers under the coverage of the Act and would reduce or eliminate present exemptions from overtime for the packing, canning and processing of fruits, vegetables and certain other agricultural commodities. It is not the purpose of this Memorandum to touch on the philosophy of this Bill or the minimum hourly wage. It is directed solely to certain deficiencies of the Bill with respect to farming, including agricultural workers and agricultural processing workers.

Agricultural Workers: The Bill fails to recognize the difference between employees in industry or agriculture who work regular hours and those employed at hand harvest labor at piece rates who work irregular hours. It is almost impossible for a farmer to keep accurate track of the hours worked by hand harvest laborers employed at piece rates. These workers who harvest fruits and vegetables on a piece rate basis pretty much set their own hours. They come to work at different times; stop for lunch at different times; take varying lunch periods and quit at the end of the day when they feel like it. In a large orchard the farmer cannot possibly know how many hours each picker is in the orchard, much less, how many hours he works. The farmer has always left these hours to the worker, being concerned only with getting the crop harvested.

It would be difficult, if not almost impossible, for the farmer to keep an accurate record of the number of hours worked by each picker. Record keeping would also be

complicated by the fact that families often pick together, putting their fruit into the same boxes or bins. This Bill, as presently worded, would mean that each picker would have to have separate boxes or bins, whereas at the present time families combine their fruit, thereby saving time in emptying their picking containers. This would mean a waste of time for the pickers as they would have to walk greater distances to the bins. Hand harvest labor paid on a piece rate basis should be excluded from the hourly minimum wage.

Historically, most fruits and many vegetables have been harvested on a piece rate basis. Workers are paid according to their production. Those who are capable and work diligently earn good money; others who may be physically handicapped, and older workers or children who are not able or willing to work as hard or as fast, receive the same piece rate but a lesser return per hour. Establishment of an hourly minimum wage for these workers would force the farmer to eliminate those who cannot or will not produce at the average rate of speed; otherwise the farmer would have to pay more per unit for the slower workers.

Passage of H.R. 13712 would result in the denial of work opportunities to the old, the young and the partially handicapped who want to make their contribution but cannot produce at the average rate.

The Bill should provide that payment of established piece rates will constitute compliance with the Act and that it will not be necessary to guarantee a minimum hourly wage to piece rate workers where the established piece rates provide adequate average return. As above-mentioned, this cannot be on an hourly basis because the farmer cannot have an accurate record of the number of hours worked by each picker.

Agricultural Processing Employees: Section 204 would modify the present exemptions provided for agricultural processing employees. Under the present law, Section 7(b)(3) provides a partial exemption from overtime for a 14-week period for employees in seasonal industries; overtime is required for work in excess of 12 hours per day and 56 hours per week. Section 7(c) provides a complete exemption from overtime for employees of an employer engaged in the first processing of, or in canning or packing, perishable or seasonal fresh fruits or vegetables and other agricultural endeavors. Thus, under the present law, employers have partial or complete exemptions from overtime for up to 14 weeks, or up to 28 weeks if they qualify. But, they are covered by the minimum hourly wage scale of Section 6. Some employers have total exemption from both minimum wages and from overtime under the Area of Production (Sec. 13(a)(10)) and under Agriculture (Sec. 13(a)(6)).

Section 204(d) of H.R. 13712 provides an exemption for overtime for a 14-week period for work up to 10 hours in any work day and 48 hours in any work week for employers engaged in packing, first processing or canning "any highly perishable agricultural or horticultural commodities." The Committee Report defining "highly perishable" is so limited that it is highly questionable whether fruit packing or processing houses would have any exemption whatsoever from overtime.

The total elimination of these exemptions is completely unjustified and impractical. Fruit houses have no choice except to work overtime during the peak season. The fruit must be handled immediately if it is to be placed in the retail stores in the best possible condition and the farmer given at least a chance of obtaining a fair return for his product. All available help is utilized; the employer cannot operate on a 40-hour week. Employers need the 14 week periods presently provided by Sections 7(b)(3) and 7(c).

Repeal of the present exemption would

place an especially heavy burden on the small grower whose fruit is packed in a co-operative packing plant or by an independent commercial packer. Large growers packing only their own fruit would still be entitled to the lower hourly rates provided for agriculture and would not be obligated to pay any overtime.

The Congress, when the Fair Labor Standards Act was adopted, held extensive hearings and gave serious consideration to the problems of agriculture and seasonal industries and wisely provided the exemptions found in Section 7(b)(3) and Section 7(c). The same conditions exist now as prevailed then, insofar as perishable fruits and vegetables and the requirements of other seasonal industries are concerned. One of the objectives of Congress in requiring payment of overtime over 40 hours per week was to spread out the work and to relieve unemployment. This could be and has been done in industry but it cannot be done in agriculture nor in the processing or packing of perishable fruits, where we almost always have a shortage of help at peak seasons. Overtime cannot be eliminated by hiring additional workers. They are not available. The employer has no choice. The reasons which the Congress found to be sound in 1938 and in subsequent sessions when this problem was considered are equally sound today.

The exemptions from overtime should be preserved. H.R. 13712 goes much too far and would have adverse effects on everyone concerned—grower and consumer alike. The consumer will immediately be faced with an increase in the cost of living to the extent the grower is able to pass along costs.

Furthermore, the additional cost of make-up pay for slow, incompetent, handicapped or lazy farm workers and the cost of overtime for packing and processing workers will inevitably result in many growers being forced out of production. This will mean a smaller supply of fruits and vegetables and will directly lead to higher consumer prices. So city residents, as well as the farmers, will lose if these deficiencies in the Bill are not corrected by amendments.

ERNEST FALK,
Manager.

Mr. Chairman, in addition to the valid points made by the Northwest Horticultural Council, I would like to include at this point in my remarks a resolution regarding seasonal processing exemptions adopted at the annual meeting of the Northwest Cannery & Freezers Association last month:

RESOLUTION RE SEASONAL PROCESSING EXEMPTIONS ADOPTED AT ANNUAL MEETING OF NORTHWEST CANNERS AND FREEZERS ASSOCIATION, APRIL 15, 1966

Whereas, The Congress, over a period of some 38 years, has consistently recognized the urgent need of the canners and freezers of seasonal and perishable fruits and vegetables for flexibility in hours of labor during peak harvest and processing seasons and has wisely provided reasonable exemption from the maximum hourly requirements of the Fair Labor Standards Act to permit the preservation of these perishable crops with minimum losses of valuable food without unreasonable overtime penalties for so doing; and

Whereas, Proposals now pending in Congress would reduce present overtime exemptions through statutory limitation to one-half of the present allowable period of time; and

Whereas, Said proposals would further drastically reduce such overtime exemptions by limiting their application to the processing of "highly perishable" commodities in their raw or natural state, which by Congressional intent would be interpreted to mean commodities subject to especially rapid deterioration or spoilage under ordinary cir-

cumstances unless some affirmative action (within 24 hours) is taken to preserve them from spoilage or decay; and

Whereas, Said proposals are assertedly intended to spread work and thereby increase employment opportunities, but instead would reduce employment in seasonal fruit and vegetable processing plants, would cause substantial losses of valuable raw food products, would reduce efficiency of operations and would substantially increase the cost of food to consumers; now, therefore

Resolved, By the members of the Northwest Cannery and Freezers Association, in meeting assembled this 15th day of April, 1966, that we hereby reaffirm the pressing need for the seasonal processing exemptions as presently applied in our industry; and

Resolved further, That we urge the Congress to reject said proposals, and to retain the present maximum of 28 weeks of overtime exemptions for employers engaged in the first processing of perishable or seasonal fresh fruits and vegetables.

This resolution, Mr. Chairman, explains the pressing need for the seasonal processing exemptions that have been recognized by Congress for 38 years, but which would be done away with in the committee bill. I am hopeful the present maximum of 28 weeks of overtime exemptions for employers engaged in the first processing of perishable or seasonal fresh fruits and vegetables will be retained by the Congress through an amendment to H.R. 13712.

Mr. Chairman, H.R. 13712 contains two additional and serious problems for certain segments of our agricultural industry. I am hopeful both of these can be corrected by amendments.

I do not believe it is realistic to attempt to apply a minimum hourly wage to an employee who has never been an hourly worker. A good example is sheepherding where the individual is traditionally a monthly salaried employee for whom the employer purchases every item for his existence and furnishes lodging and food. A shepherd may work 2 hours a day or 24 hours a day, depending upon the needs of his flock. Obviously, it would be next to impossible to keep track of a shepherd's time on an hourly basis. And how would an employer compute the value of lodging and food on an hourly basis to determine a meaningful hourly factor? This is an example of what I feel to be a general lack of consideration of agricultural practices and problems in the makeup of the bill before us today. To rectify this particular problem, the bill should exempt individuals employed on a farm or ranch which is principally engaged in production or feeding of livestock. I would hope the bill may be so amended.

Another inequitable situation, Mr. Chairman, would be the inclusion of agricultural workers whose wages are already set by the Secretary of Agriculture, such as those employees already covered under the Sugar Act.

While a number of my colleagues have discussed other areas of concern in this legislation as it would affect other industries—and may I say I find myself in sympathy with many of my colleagues and intend to support certain of their amendments—I do want to make it clear that I feel agriculture has no place in the legislation before us today. Agriculture

is a problem separate from other situations and should be treated separately. I am aware that the problems of agriculture have not been adequately considered in this legislation, and this is understandable because the committee which holds jurisdiction has not in the past been particularly concerned with agricultural problems or practices.

The best way to handle the problem, it seems to me, is to simply exempt agriculture from the bill.

AMENDMENT OFFERED BY MR. GOODELL

Mr. GOODELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODELL: On page 30, line 14, strike "(a)".

On page 31, lines 13 through 17, strike all of subsection "(b)".

On page 31, line 12, immediately before the period insert the following proviso: "Provided, That an employer who shows to the satisfaction of the Secretary that the actual amount of tips received by an employee is greater than the maximum amount of tips which an employer may determine an employee receives under this section, the amount paid such employee by his employer shall be deemed to have been increased by such greater amount".

(Mr. GOODELL asked and was given permission to revise and extend his remarks.)

Mr. GOODELL. Mr. Chairman, let me say at the outset that I voted for this legislation in the committee, that I intend to support this legislation regardless of whether the amendments that I offer and the amendments I support are adopted.

I believe we have greatly improved the legislation, as it now stands, compared to the bill reported last fall.

The amendment I offer in this instance is aimed at a problem with reference to tipped employees. For the first time we are covering hotel, motel, and restaurant workers. This means we are covering a large number of workers who receive a substantial portion of their incomes from tips.

The bill as it reads would permit in the first 2 years a maximum of 35 cents per hour credit for tips, provided the employee receives 35 cents an hour or more. If an employee should receive \$2.50 an hour in tips he could still be credited only with 35 cents—that is, the employer could be credited with only 35 cents an hour.

The net effect of this, at it stands in the bill, is to help many of those who least need it. I refer to those who may be doormen in fashionable hotels or those who are headwaiters. People of this nature in many instances receive incomes on an annual basis in five figures, because of the large number of generous tips they receive.

This bill, in effect, as written, would only credit 35 cents an hour in tips, regardless of how much was received by an employee in tips. In the third and fourth years it would go up to 40 percent and thereafter to 45 percent.

My amendment in simple terms would permit a crediting of the amount actually received in tips by the employee against the requirement of the minimum wage. It also has the protection that the employer must show to the satisfaction of

the Secretary that the actual amount of tips received by an employee is as claimed.

I do not believe there is any loophole here. This would simply permit a fair situation, so far as tipped employees are concerned, where those tipped employees receive substantial income.

I believe very deeply in the concept of covering the very low tipped employees and low wage employees. I do not believe we have any business going in and insisting that an employer pay an additional wage to an employee when the employee may receive in tips as much as \$10,000 or \$12,000 or more a year.

I believe my amendment strikes directly at this point and does no violence to the basic philosophy of the act. It will do no violence to this section. I believe it could be easily administered by the Secretary.

I urge the adoption of the amendment.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment.

When we started trying to work out some kind of a reasonable approach to minimum wage coverage, and particularly in this area of tipped employees, we had two diametrically opposite views to deal with. There were the restaurant owners, who demanded that all tips be counted, such as the amendment now before us today provides, towards any minimum wage. There were also the workers within the restaurants, who demanded that no tip allowance be made toward the minimum wage.

The committee, after a months of deliberation and consultation with various groups from all over the country, came up with the proposal which is contained in the bill. We tried to work out a reasonable approach to the subject based upon good sound logic and common sense.

The responsibility for paying the employees always belongs to an employer. To have this Congress take the position officially that it is the requirement of a person going into a restaurant to be served not only to consider the price of the meal but also that it is his responsibility to pay the wages of the employee who serves him his food goes beyond reason. It is not justifiable; it cannot be sustained in logic; and, therefore, is not to be considered seriously, in my humble opinion, by this House.

Mr. POWELL. Mr. Chairman, will the gentleman yield?

Mr. DENT. Yes. I yield to the gentleman.

Mr. POWELL. Is it not true that if this amendment is adopted, the tipped employees under the 1961 amendment will be worse off than they are now?

Mr. DENT. This is very true. What it means in fact and in practice is that a tipped employee now receiving what is considered the lowest possible pay—and it is only in some States 35 cents an hour—from the employer will find himself by a decree handed down by this House, where all of the employees will have the wage taken away from them and find that they must depend entirely on tips. If they are earning \$1 an hour in tips, it is only because that employee is the type of person who, once he stops working for the employer, after he has

taken your order and given you your food, then starts to work for you. He sees that your cup of coffee is warm and sees that you have plenty of ice water on the table and is nice to you and tells you a little story which may amuse you or something of that sort. You feel gratified at that treatment and give him a tip. That is your business. But let us not say from now on when you go into a restaurant that it is your job or your duty not just alone to pay for your meal but to pay the full wages of the employees of that institution. I do not believe any Member of Congress can really seriously consider this kind of amendment.

Mr. ELLSWORTH. Mr. Chairman, the food processing industry itself has publicized the steep gains in productivity—rising at the rate of 8 percent a year. And the U.S. Department of Agriculture found that productivity in the fruit and vegetable processing industry outstripped the average for all farm foods. The processed fruit and vegetable industry ranked second highest among the farm food manufacturing industries in average annual rate of growth in output per man-hour.

The Labor Department's Bureau of Labor Statistics surveyed productivity gains of production workers in 14 manufacturing industries since 1947. Canned and preserved foods ranked fifth highest among these 14 industries in annual increase in output per production worker man-hour.

It can be readily seen, therefore, that processing of fruits and vegetables is an extremely efficient factory operation, utilizing factory mass production techniques and automated equipment. The result is worker and man-hour productivity which ranks at the top compared to other manufacturing industries.

As a result of increased labor productivity, unit labor requirements since 1947 have declined 47.6 percent in terms of production workers—indicating that fewer workers and less work time was necessary to produce a given volume of production. Industry output has risen 45 percent over the period 1957–59 as a base. Yet total man-hours worked annually in food processing plants have declined, according to U.S. Department of Agriculture figures.

CONCLUSION

The continually rising productivity in the canning and preserving industry—which is already well in the lead among high-productive industries—will rapidly absorb any impact of overtime pay or minimum wage requirements or current unit costs of production.

Mr. AYRES. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, this is a very important amendment. The gentleman from Pennsylvania [Mr. DENT] is very familiar with his point of view and the gentleman from New York [Mr. GOODELL] is very familiar with his point of view. I know that the members of the committee will want to

understand this, because during the course of the day we do not want to prolong the debate any longer than necessary. So, if we can have the cooperation of the committee, I am certain all of us will understand the arguments much better.

Mr. GOODELL. Mr. Chairman, will the gentleman yield?

Mr. AYRES. I yield to the gentleman from New York.

Mr. GOODELL. I would just like to take the time to answer the gentleman from Pennsylvania and the gentleman from New York in their comments. It should be made absolutely clear that all my amendment does is to permit an employer to credit tips that are actually received by an employee in the full amount that he receives where the employer can satisfy the Secretary of Labor that those tips were received. It is a very simple amendment. The present bill will create a situation where many tipped employees who receive far, far above the minimum wage because of their tipped income will also be given a raise in wages. The employer will be required to pay them an additional wage. Under the bill as it is written the first year the employer will only be able to credit up to 35 cents an hour in tips regardless of how much an employee receives in tips. That is the provision in the bill. My amendment would simply permit the employer to credit whatever tips are received, whether it is 35 cents, 10 cents, or \$4.50. The employer will have to prove to the satisfaction of the Secretary that they are received.

Mr. Chairman, it does not seem to me that this is a complicated amendment. I find myself somewhat amazed that there is opposition to it from my good colleague, the gentleman from Pennsylvania [Mr. DENT], who is in charge of the legislation on the other side of the aisle.

Mr. Chairman, I, myself, strongly favor coverage of these employees who are low paid, but I do not feel we should impose upon the employers the extra burden of paying additional wages where the tip income is substantial and the employee's income and earnings far exceed the minimum.

Mr. Chairman, it seems to me this is a simple proposition and I would urge support of the amendment.

AMENDMENT OFFERED BY MR. KLUCZYNSKI

Mr. KLUCZYNSKI. Mr. Chairman, I offer a substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. KLUCZYNSKI as a substitute for the amendment offered by Mr. GOODELL: On page 30 at line 14 insert:

"Section 101(a) is amended to read as follows:

"Section 3(m) of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new sentence: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 45 per centum of the applicable

minimum wage rate, except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount." "

(Mr. KLUCZYNSKI asked and was given permission to revise and extend his remarks.)

Mr. KLUCZYNSKI. Mr. Chairman, this bill has embraced the principle of crediting tip income, in part, against the minimum wage. The credit varies between as much as 35 percent of the minimum in 1967, up to 45 percent of the minimum in 1971. And the right of an employee to appeal if his tips are not as much as the credit is preserved.

I think it is a sound principle to credit tips in part in this way, giving the employer a credit for a part because the tip is earned on his premises, using his equipment, and selling his food. The employer really sets the stage in which the waiter earns his tip.

And the employee should have a part too, of course. His salesmanship and personality contribute to the tip the customer leaves. The employer and the employee are partners in the earning of tips.

Now I notice that the tip credit in the bill is 45 percent of the minimum when the minimum reaches \$1.60 an hour.

I think that the tip credit should be 45 percent of the minimum from the very beginning; namely, on February 1, 1967, the date on which the law would become effective. I offer a simple amendment to bring this about.

You know, there are many parts of the Nation where wages are historically low, especially the wages of tipped personnel. The amendment I propose would ease the blow a little in those parts of the Nation.

Tips in this country are greater than you think. Tipped employees are already the aristocrats of the restaurant and hotel industries. I expect that tips now, on a national overall average, exceed \$1.25 an hour.

As I have said, the tip proposal of this bill is sound and just in principle. I think, however, the tip credit is not quite high enough in the beginning, and I see no reason to delay the application of the 45-percent tip credit. My amendment would allow the employee to keep all of his tips, but would give the employer a credit for not more than 45 percent of the applicable minimum from the date on which the law becomes effective. Let me point out that the credit is a percentage—45 percent—of the minimum which is applicable at that time—not 45 percent of the actual tip.

A comparison of the fiscal effects of my proposed amendment with the provisions of the bill as now drawn, is shown in the following table which I submit for the RECORD.

Date	Minimum wage	H.R. 13712 as now drawn			H.R. 13712 with proposed amendment		
		Tip credit		Wage (cents)	Tip credit		Wage (cents)
		Percent	Cents		Percent	Cents	
Feb. 1, 1967	\$1.00	35	35	65	45	45	55
Feb. 1, 1968	1.15	35	40	75	45	51.75	63.25
Feb. 1, 1969	1.30	40	52	78	45	58.50	71.50
Feb. 1, 1970	1.45	40	58	87	45	65.25	79.75
Feb. 1, 1971	1.60	45	72	88	45	72	88

Mr. Chairman, I urge the adoption of the amendment.

Mr. GOODELL. Mr. Chairman, I rise in opposition to the substitute amendment.

Mr. Chairman, I will not take the full time, but I simply want to clarify what the gentleman's substitute amendment will do.

His substitute will permit an employer to credit in the first year 45 cents an hour in tips instead of 35 cents an hour in tips. This means if the employee receives \$2 or \$3 or \$10 an hour in tips, the gentleman's substitute amendment would permit a credit of 45 cents an hour. This is an inadequate substitute from my point of view and it merely means 10 cents additional credit in tips regardless of how much an employee receives in tips.

My amendment is simply and straightforward and I hope the House will turn down the substitute amendment and adopt my amendment which would permit the crediting of tip income as it is received—to the satisfaction of the Secretary of Labor. The employers are obligated to meet every requirement under my amendment as set by the Secretary of Labor to prove that this is income received by the individual.

I have had it pointed out to me a number of times and in the hearings that we have individuals in this country who pay for their jobs and who receive no wages because their tip income amounts to \$30,000 to \$40,000 a year. That is a rare case but you do have many, many others who receive a low wage but whose tip income is over \$10,000 a year. You certainly have a very large number of tipped employees who receive more than the minimum income per hour, because of their tip income. Tip income should be fairly and properly and straightforwardly credited under procedures set by the Secretary of Labor.

Mr. Chairman, I hope the substitute amendment will be defeated.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PUCINSKI. Mr. Chairman, I rise in support of the substitute amendment offered by the gentleman from Illinois and in opposition to the original amendment.

Mr. Chairman, I should like first to point out to the House that the amendment offered by the gentleman from New York [Mr. GOODELL] would automatically mean a substantial pay cut for some 2 million restaurant workers in this country who are now covered by various labor agreements and who are now receiving remuneration from their employer in addition to the tips that they earn.

In the city of Chicago, for instance, our waitresses receive \$6.85 a day. Under the gentleman's amendment, that \$6.85 would be wiped out if the girl earned in excess of that in tips. So I submit his amendment would indeed be retrogressive, it would be going backwards for those people who have now carved out for themselves a semblance of a living wage in this industry.

In support of the substitute amendment of the gentleman from Chicago, I would like to say that this committee has been working very hard on the whole problem of tipped employees. Last year the bill reported out by the committee over the objections of the restaurant industry provided very much what the gentleman from New York is now suggesting. The bill provided that the Secretary of Labor would determine in each area how much in tips a girl has earned and how much can be applied against the minimum wages. The restaurant industry quite properly argued that this was putting them at the complete mercy of the Labor Department. As you know, that bill never saw the light of day.

In the bill now before the House we have a legal presumption which is written into the bill that part of the earnings of this girl coming from tips shall be applied against the minimum wage.

What the gentleman from Chicago is trying to do is to improve that formula.

I should like to read you a letter from the National Restaurant Association which may clarify some of our thinking. I shall not read the whole letter, because it is rather long, but I will read that part which applies to this particular proposal:

If the restaurant industry is to be covered within the provisions of the Fair Labor Standards Act, it is the bill H.R. 13712 which the restaurant industry prefers to any other proposals which have been made. It is true that due to economic differences between the regions of the United States, the effect of this measure will apply in some regions more than in others. The initial impact on February 1, 1967 would fall very largely upon the South. In order to reduce damage in the South, I request that the tip credit now provided in the bill H.R. 13712 be changed to 50 per cent of the minimum, beginning upon the effective date of the Act. This will reduce the harm which will fall in regions of low wage scales.

As you are aware, Section 305 of the bill H.R. 13712 requires a perfecting amendment. I understand that you have this in prospect.

It is felt that the bill H.R. 13712 represents a statesmanlike approach to the problems of the restaurant industry; and the suggestions made above are made with the hope that if they are incorporated, the other provisions of the bill remain intact.

The substitute amendment offered by the gentleman from Illinois [Mr. KLU-

CZYNSKI] meets the request of the restaurant industry. We recognize one thing. Certainly a girl earns tips. But a line must be drawn at some point as to where the tips are actual earnings and where they are gratuities for extra-good service. To accept the original amendment would mean that we should extend this principle to all the service industries, and if any worker gets a tip, he should have that tip deducted from his salary.

I submit that the substitute amendment offered by the gentleman from Chicago would perfect this bill. It would certainly become a working provision to bring the restaurant industry under this coverage without hurting the industry.

I should like to call to the attention of the House the fact that this bill will cover only approximately 4 percent of the restaurants in America. Keep in mind that before the machinery of this act comes into play, a restaurant, under the present bill, must do a half million dollars gross annually. In 1968, when we go down to a quarter of a million dollars gross, it will affect only 6 percent of the restaurants in America. Therefore, I hope that the amendment of the gentleman from Illinois will be adopted.

Mr. BURTON of California. Mr. Speaker, I move to strike out the last word.

The CHAIRMAN. The gentleman from California is recognized for 5 minutes.

Mr. BURTON of California. I do not think a great deal of either of these amendments. I intend to support, as the lesser of two evils, the substitute offered by the gentleman from Illinois [Mr. KLUCZYNSKI].

I would like to remind the House that the restaurant industry apparently wants to have it both ways. They want to have tips considered as wages when their obligation to meet the minimum wage law is being considered. But they do not want tips to be considered wages when their obligation as employers to pay social security tax is involved.

Last year they convinced the Congress that tips were not wages and should not be treated as such. So the employers had no obligation to pay the employers tax on tips, as is required of wages under the Social Security Act. This year they are back and telling us that tips should be considered as wages for purposes of the minimum wage. I frankly do not view either of these amendments with very much favor, but on balance I think that the suggestion of the gentleman from Illinois is preferable as a substitute to the proposal of the gentleman from New York.

Mr. DENT. Mr. Chairman, we have discussed this very thoroughly. As I have told the Members of Congress and people throughout the country, one of the most vexing problems was where to set the tip allowance for such employees covered in a bill.

In considering the discussions and interest of the Members of this House, I am accepting on behalf of the members of the committee this substitute amendment.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Illinois [Mr. KLUCZYNSKI].

skill to the amendment offered by the gentleman from New York [Mr. GOODELL].

The question was taken; and on a division (demanded by Mr. GOODELL) there were—ayes 88, noes 26.

So the substitute amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. GOODELL].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ANDERSON OF ILLINOIS

Mr. ANDERSON of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of Illinois: On page 31, after line 17, insert the following new section:

"() Section 3(o) of such Act is amended by adding the following new sentence at the end thereof: 'There shall be excluded any time of any employee of a restaurant, hotel, or motel, spent in changing clothes or washing at the beginning or end of each workshift and any time spent eating meals on the premises of the employer.'"

(Mr. ANDERSON of Illinois asked and was given permission to revise and extend his remarks.)

Mr. ANDERSON of Illinois. Mr. Chairman, this is not designed in any way to be a crippling amendment to the bill, I can assure the gentleman on the majority side of the aisle, but rather to clarify the present language of section 3(m).

Simply stated, it would make certain that restaurant and hotel employers are not required to pay employees for uniform changing time and for washup time, and meals.

I submit this amendment because I do not believe the language of the present bill under consideration does give sufficient recognition to the unique problems that the hotel and motel and restaurant industries would otherwise face with respect to this matter, if this language is not added to the bill.

Section 3(o) of the Wage and Hour Law does exclude from hours worked any time that is spent by an employee in changing clothes or washing at the beginning or the end of each work day, if such time is excluded by industry custom or union contract. That is the situation that now obtains with respect to industry generally.

All we are asking is that in specific language we grant this same exemption to employers in the hotel, motel and restaurant industries.

Someone may ask, "Why is this necessary? Would this not be done anyway?"

I raised this matter when the gentleman from Pennsylvania was before the Rules Committee, as shown on page 90, section 4 of the hearings we held. I asked Mr. MARTIN, who I believe was testifying at that time, about this matter, and he said, "Well, it would be up to the administrator. The administrator could issue regulations on this matter."

It seems to me it would be infinitely preferable, in this situation when we are bringing a brandnew industry—namely, the restaurant industry—under the coverage and the application of this law for

the first time, to spell this out clearly in the language of the statute, rather than to leave it up to the administrator, which could possibly result in some misinterpretation of what I believe basically probably is the intention of the committee in bringing this bill before us today.

I say this in view of the fact there have been some interpretations in times past by the Labor Department requiring a payment for uniform changing time in several cases when employers do require employees to wear uniforms or when the nature of the work requires a certain kind of uniform. This is obviously true in respect to the restaurant industry.

With respect to wash-up time, they are bound by health codes, State laws, and municipal ordinances to make certain that restaurant personnel take care of matters of personal cleanliness.

So let us spell it out, in deference to the industry which is being brought under coverage for the first time.

It does not take any great mathematical exposition to point out that if the restaurant industry is going to be obliged to pay for uniform changing time, meal periods, and wash-up time, all of which could easily amount to more than a half hour each day, then this will force up the labor costs far more than the 12 percent it has been said this bill would result in for the first year.

I believe in fairness and simple equity we should make the law specific and clear on this point.

Again, I hope the committee will accept the amendment.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment.

It was a rather long amendment, but if I understood it as it was read and explained, this amendment would give due credit in time to the employer against the number of hours worked, for wash-up time or bathroom time or restroom time. It would give credit to the employer for this time consumed or used by the employee.

Most of the time when the employees go to the washrooms it is not because they have any choice in the matter. I do not believe we ought to start saying to our employees around the restaurant, "You must go home or wait until after hours."

I do not believe anybody seriously considers this to be a problem in a restaurant. There are many idle hours in restaurant work. The time is often broken down into two or three split shifts, for going to work. The employees never eat during the noon hour. They eat after hours, or before the regular meal times.

I do not believe any employer really seriously has requested this. At least the committee in all its deliberations has not heard of a single request for this type of an allowance on the minimum wage bill.

I do not feel we should have a setup where a "snooper," as it were—as they are called by some—would have to go to every restaurant to find out whether a trip to the bathroom was legitimate or just one to waste time.

I do not understand why this would be necessary.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Frankly, I do not believe we are so worried about that matter which the gentleman now describes as we are about things such as changing uniforms, eating meals on the premises, and so on.

If, as the gentleman says, these things occur during the normal working 8-hour day, there would not be any problem.

Why should the gentleman oppose language which I believe would merely serve to clarify the very point being made?

Under section 30 of the present wage and hour bill, as I pointed out, industry now does not have to pay for that kind of time, if it is not paid for according to the custom of the industry. It is not at present the custom of the restaurant industry to pay employees for time consumed in the types of activities I have described.

So we are merely clearing up some possible confusion and we are doing our best as the legislative branch instead of leaving it up to the administrative.

Mr. DENT. I am glad you took most of my 5 minutes to explain it, because very frankly you have done a better job than I could have done in explaining to the House why this amendment should not be accepted.

Mr. PUCINSKI. Mr. Chairman, I rise in opposition to this amendment.

If I understand the gentleman's amendment correctly, this will probably be the first time that I know of that we will start keeping a time record of the number of times somebody went to the washroom and how long he spent there. This could prove to be downright embarrassing, and I do not think you want this in a bill.

Mr. ANDERSON of Illinois. If the gentleman will yield, there has not been any problem of that kind created under the present section of the bill, which extends the same privilege to industry, which says time like this shall not be counted. Industry does not have any spies or snoops that I know of that go around snooping in dealing with this. Why would the restaurant industry be guilty of that practice? I am trying to clarify something already in the law with respect to industry generally.

Mr. WHITENER. Mr. Chairman, I move to strike out the requisite number of words.

I have asked for this time in order to ask a question of the distinguished gentleman from Pennsylvania [Mr. DENT] with reference to the language on page 31, lines 15 through 17, where it reads as follows:

"Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips.

My question is, Does this apply to the particular employee or does it apply to a class of employees within a service operation?

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. WHITENER. I yield to the gentleman.

Mr. DENT. It applies to the particular employee and is the same basis as is used now by the Internal Revenue Service in consideration as to the description or the definition of a tipped employee. That is why it is in there.

Mr. WHITENER. May I ask you this question: If a new restaurant is opened or a new business in which employees are customarily tipped but the firm has no history, nor does the employee have any history, of more than \$20 a month in tips at that particular employment, then what rule will be applied?

Mr. DENT. You will find if you discuss the matter with the Internal Revenue Service and the Social Security Administration, the word used here "customarily" is used in order that an occasional tipped person who may have a one-shot tip and the employer knows about it will not be put in this position, because the employer should not try to take advantage of the fact that this employee on a certain occasion receives an occasional tip. However, if the tips amount to \$20 a month regularly, then they are considered to be customarily and regularly. If it happens 1 month out of 4 or 5, he would not be considered to be a tipped employee.

Mr. WHITENER. May I ask this question based upon a hypothetical state of facts: Suppose in a restaurant where there are 10 waiters who have over a period of years realized more than \$20 a month in tips a new waiter is employed who has no previous experience in this line of work. Would the record or the history of more than \$20 in tips a month received by the old employees in this establishment have any bearing on a determination as to the individual's wages; that is, the individual who is the new employee?

Mr. DENT. No; because it is based upon the individual's receipt of tips. That is the entire purpose of this particular legislation today.

Mr. WHITENER. So, for the first month, then, I take it, the tips could not be included in a new employee's computation of wages?

Mr. DENT. If the gentleman will yield further, may I elaborate upon that?

Mr. WHITENER. Yes.

Mr. DENT. I discussed this in the same manner with the industry representatives and they said to me that not all new employees do they pay them a higher wage during the 4- to 6-week period because of their newness to the job and newness to the customer and their patrons and their tips are very small, if any. But after that and after they get onto the job and are put on regularly, then their tips normally amount to enough to make up for the cut they receive in wages.

A specific example is that one restaurant about which I know pays \$1.75 an hour for 6 weeks to its new help coming in. After 6 weeks that employee receives 65 cents an hour.

I believe that ought to answer the gentleman's question and the definition for which the gentleman is asking.

Mr. WHITENER. And, so, the net result is that it is the history of the individual employee that is considered and not the group of employees of which he is a part?

Mr. DENT. If the gentleman will yield further; that is right.

Mr. WHITENER. Mr. Chairman, I thank the gentleman from Pennsylvania.

Mr. Chairman, I yield back the balance of my time.

Mr. UDALL. Mr. Chairman, I move to strike the necessary number of words.

(Mr. UDALL asked and was given permission to revise and extend his remarks.)

Mr. UDALL. Mr. Chairman, I would like the attention of the author and floor manager of the bill in order to clarify one provision.

Section 305 of the bill provides that any employer performing a contract service for the United States shall pay his employees the minimum wage.

I am interested in the concessionaires who operate restaurants, hotels, and similar businesses within our national parks.

I would like to know whether it is the intent of this provision that concessionaires in the national parks who, of course, operate under a contractual arrangement, that is a concession or franchise with the United States, should be required to pay the minimum wage, or is the provision intended to apply only to those contracts that are primarily benefiting the Government and not the public, such as contracts for construction of Government buildings and roads?

Mr. O'HARA of Michigan. Mr. Chairman, if the gentleman will yield to me—

Mr. UDALL. I yield to the gentleman from Michigan.

Mr. O'HARA of Michigan. The coverage of section 305 is based upon the coverage of the Service Contract Act of 1965. It applies to employees of an employer who has contracts subject to that act. Therefore, the question is whether or not a particular employer is subject to the Service Contract Act of 1965.

At that point, the question is whether the particular contract is a service contract with the Government or a concession contract in which the service is not performed primarily on behalf of the Government or its employees?

I would simply have to say to the gentleman that if the contract is a true concession and the service is provided to Government employees and others, but the service to Government employees is only incidental to the major purpose of the concession, certainly it would not be covered under the Service Contract Act or by section 305 of this bill.

Mr. UDALL. I thank the gentleman for that explanation, and I would like to pose a second question:

I understand that section 201 of the bill exempts any employee of an establishment which is a hotel, motel, or restaurant from the overtime provisions of the bill. It also provides an exemption from both minimum wage and overtime provisions for recreational establishments which either operate for no more than 7 months in the calendar year or have average receipts during 6 months of the preceding year not exceeding one-third of their receipts during the other 6 months.

Am I correct in assuming that a hotel such as a resort hotel operated by a concessionaire in a national park for not

more than 7 months of the year would qualify for exemption from both the minimum wage and overtime provisions of this bill?

Mr. DENT. Mr. Chairman, if the gentleman will yield, the resort hotels are in a category of their own, and the question as to whether or not a resort hotel is one that has to be determined based upon what is the principal activity within that area; whether it is recreational, including the hotel as a side interest, or whether the hotel were not a part of the recreational activity at the particular site.

Might I answer your first question with reference to section 305 and the O'Hara contract bill. We have an amendment when we get to that section that will clarify the thing. So I am sure you will get a satisfactory answer. However, in going into section 305 and the effects of this bill, we ran up against the situation that might obtain when Medicare comes into effect. So we have a ruling which in essence says that where there is a benefit that goes to a third party, then it is not considered a contract under the provisions of section 305.

Mr. UDALL. I appreciate the clarification. I would raise one final point relating to the matters that I have raised here. Would this overtime and wage exemption apply to a national park concessionaire which qualifies under the criteria you have given? If it does, would this also apply where you have one resort management running a souvenir and gift shop or general supply and grocery store, service station and garage and so forth, along with the hotel or restaurant—that is, all these allied activities under the one management. If all these activities are ancillary to a recreation activity which does meet the seasonality or average 6-month receipts criteria—if this is substantially all under one management and meets these criteria, would all of these activities be exempt under the principle that the gentleman has set forth?

Mr. DENT. In my opinion, it would be—going back to the original answer, it would depend on what is the primary activity.

Mr. UDALL. I thank the gentlemen from Michigan and Pennsylvania for these clarifications.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

Mr. HAGEN of California. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would like to ask the honorable gentleman from Pennsylvania some questions. As I understand it, at some later point in the proceedings, you are going to eliminate the word "highly" from this phrase "highly perishable"?

Mr. DENT. I would suggest to the gentleman that he wait until we get to that particular point in the bill. That is why earlier I asked unanimous consent to have the bill considered as read and be open to amendment. I did not do so to cut off debate. This kind of legislation in many instances crosses over so far as the effects of its provisions are concerned from title to title and it would be easier for the Members of the House to understand what we are doing. It would make it easier in our consideration of the bill if it were considered as

read and then we could move about within the confines of any title in the bill on the different subject matters that are related. The point raised by our colleague, the gentleman from California is a related subject that comes under another section of the bill. It is very difficult for us to keep our thoughts in line in discussing the various parts of the bill.

Therefore, if the gentleman from Virginia [Mr. SMITH] is present, I would renew my request to consider the bill as having been read and open for amendment at any point, but since I do not see the gentleman from Virginia present on the floor, I will not make that request.

Mr. HAGEN of California. I have one other question. Again it relates to the subject of farm labor.

As I understand in calculating the 500-man-day qualification of an employer, you exclude certain types of employees. However, it is my understanding that if the employer meets this 500-man-day criteria, then all his employees are covered; is that correct. Can any member of the committee answer my question?

Mr. BURTON of California. That is correct.

Mr. HAGEN of California. So once the employer meets the 500-man-day criteria, even these employees who are excluded from the calculation of the 500-man-day criteria are then included under the minimum wage provisions?

Mr. BURTON of California. That is correct.

Mr. BELL. Mr. Chairman, will the gentleman yield?

Mr. HAGEN of California. I yield to the gentleman.

Mr. BELL. Relative to the gentleman's question a few moments ago with reference to the phrase "highly perishable," I am going to introduce an amendment to strike out the word "highly."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. ANDERSON].

The amendment was rejected.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

DEFINITION OF ENTERPRISE

SEC. 102. (a) Section 3(r) of such Act is amended by adding at the end thereof the following: "For purposes of this subsection, the activities performed by any person or persons—

"(1) in connection with the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally handicapped or gifted children, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit), or

"(2) in connection with the operation of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), shall be deemed to be activities performed for a business purpose."

(b) Section 3(d) of such Act is amended by inserting after "of a State" the following: "(except with respect to employees of a State,

or a political subdivision thereof, employed (1) in a hospital, institution, or school referred to in the last sentence of subsection (r) of this section, or (2) in the operation of a railway or carrier referred to in such sentence)".

(c) Section 3(s) of such Act is amended to read as follows:

"(s) 'Enterprise engaged in commerce or in the production of goods for commerce' means an enterprise which has employees engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person, and which—

"(1) during the period February 1, 1967, through January 31, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than \$500,000 (exclusive of excise taxes at the retail level which are separately stated) or is a gasoline service establishment whose annual gross volume of sales is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated), and beginning February 1, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated);

"(2) is engaged in laundering, cleaning, or repairing clothing or fabrics;

"(3) is engaged in the business of construction or reconstruction, or both; or

"(4) is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally handicapped or gifted children, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit).

Any establishment which has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection."

AMENDMENT OFFERED BY MR. REID OF NEW YORK

Mr. REID of New York. Mr., Chairman, I offer an amendment.

The Clerk read the amendment, as follows:

Amendment offered by Mr. REID of New York: Section 102(c) of H.R. 13712 (amending section 3(s) (1) of the law) is amended as follows:

On page 33, line 7, strike out "1969" and insert "1970" in lieu thereof.

On page 33, line 14, strike out "1969" and insert "1970" in lieu thereof.

On page 33, line 17, add the following new language after the semicolon:

"Provided, however, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce by reason of an annual gross volume of sales made or business done in excess of \$250,000 but not greater than \$500,000 (exclusive of excise taxes at the retail level which are separately stated) unless the Secretary shall, on or before July 1, 1969, after full and comprehensive study of the national experience under this Act since February 1, 1967, find that inclusion of such establishments in this definition is not likely to result in substantially increased unemployment of part- or full-time employees of retail or service establishments. If he determines such increased unemployment is

not likely to result, the Secretary shall make a full and comprehensive report of his findings and determinations to the President and to the Congress."

The CHAIRMAN. The gentleman from New York is recognized for 5 minutes in support of his amendment.

Mr. REID of New York. Mr. Chairman and Members, I am offering an amendment to H.R. 13712 which would temper the impact of this legislation on relatively small retail and service establishments and would provide some measure of protection against potential unemployment as the result of the extended coverage of the Fair Labor Standards Act contemplated by this bill.

The bill, as brought to the floor, would extend coverage of the act in two steps to enterprises whose annual gross volume of sales made or business done, during the period February 1, 1967 through January 31, 1969, is not less than \$500,000, and, beginning February 1, 1969, is not less than \$250,000.

The amendment would delay the effective date of the second step to February 1, 1970 and would condition its effectiveness upon a finding by the Secretary of Labor, after comprehensive study of the national experience during the first period, that inclusion of the smaller enterprises would not be likely to result in increased unemployment of part- and full-time employees of retail and service establishments.

Mr. Chairman, the basic provisions of this bill are sound. They respond to the needs of our economy and of the working men and women who make it viable.

However, inclusion under the act of establishments whose annual dollar volume is as low as \$250,000 carries with it the potential danger of forcing out of the economic pipeline many Americans whose employment depends upon the ability of the retail or service enterprise to maintain a year-round work force.

Particularly in the retail trade, many Americans are able to supplement other income of the family unit by part- or full-time work under wage or hour conditions not in conformity with the provisions of the Fair Labor Standards Act. Often this additional income means that the family can afford to send to college a son or daughter who otherwise might not have the benefit of a higher education. If retail and service establishments are required to impose stringent operational economies, many of these workers may be displaced.

The point is that we must beware lest the virtues of extended coverage be outweighed by the danger of increased unemployment in this vital sector of our economy. I do not propose that we abandon today the second step of extended coverage. I do propose that we insure adequate time for full and comprehensive study of the impact on our economy of the initial extension of coverage.

If, after such study, the Secretary of Labor finds that increased unemployment is not likely to result from further coverage, no additional legislation will be needed to implement the second step. We will have made certain, however, that

our legislative intent in broadening the coverage of the Fair Labor Standards Act is carried out.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. REID of New York. I yield to the distinguished gentleman from Minnesota.

Mr. QUIE. I thank the gentleman for yielding.

I believe this is a good amendment. If we add another year before the \$250,000 goes into effect and require the finding by the Secretary of Labor, we will have more confidence that harm will not be brought to small businesses. There is such a danger now.

Mr. REID of New York. That is correct. I thank the gentleman.

Mr. DENT. Mr. Chairman, I rise to oppose the amendment. I do so because I believe there might be a little confusion in the minds of the Members.

This amendment might have been offered to the original Roosevelt bill, H.R. 10518, because that went down to \$150,000. But, as it is now in the act in existence since 1961, this is already in it, and we have been operating under that act since 1961. The \$250,000 establishment test is now in the act. It has been operating in the act. I cannot see how this House can accept the responsibility for taking it out of the act by advancing the effective date. That has already been in effect since 1961.

I appreciate the concern of the gentleman, and I say to him that under some other circumstances or on some other day in the far-distant future I might support him.

SUBSTITUTE AMENDMENT OFFERED BY MR. OTTINGER

Mr. OTTINGER. Mr. Chairman, I offer a substitute amendment for the amendment offered by the gentleman from New York [Mr. REID].

The Clerk read as follows:

Substitute amendment offered by Mr. OTTINGER, of New York, for the amendment offered by Mr. REID of New York: On page 33, strike line 6 and line 7 through "January 31, 1969", and substitute therefor the following: "(1) commencing February 1, 1967."

And on page 33, strike out the words "and beginning" in line 13, and strike out lines 14 through 17, inclusive.

Mr. ANDERSON of Illinois. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ANDERSON of Illinois. I did not hear the Clerk begin to read anything in section 102. How did we get to page 33 of the bill? I thought we were still considering amendments to section 101.

The CHAIRMAN. The Clerk has already read through section 102.

(Mr. OTTINGER asked and was given permission to revise and extend his remarks.)

Mr. OTTINGER. Mr. Chairman, I am very much in favor of the bill, H.R. 13712, and I believe it is well timed for us to bring the minimum wage standards up to the realistic costs of living of today.

There are two areas of concern I have as to the operation of the bill. One I share with my colleague from West-

chester, a concern about its operation and effect on small business. A second amendment I will offer later is with respect to the hiring of students for the summer.

My amendment would merely eliminate the second step, which would include under minimum wage coverage the small businesses grossing between \$500,000 and \$250,000.

According to the Census Bureau's 1963 census, which only has statistics with respect to firms grossing between \$300,000 and \$500,000—rather than the \$250,000 provided in this bill—there are approximately 1 million retail establishments in the country. Of these, only 80,000 grossed more than \$500,000 in 1963.

There are 58,000 retail establishments which grossed between \$300,000 and \$500,000.

In the wholesale field, there are 40,000 firms grossing between \$300,000 and \$500,000.

In the services field, there are some 1,062,000 establishments, and of these 9,000 grossed more than \$500,000 and 8,000 grossed between \$300,000 and \$500,000. The remainder all grossed under \$300,000.

In sum, taking retail, wholesale, and service establishments, more than 110,000 small business establishments would receive protection under my amendment.

To show what kind of businesses these are: In the retail trade establishments alone, according to the Census Bureau, there are 30,000 with sales between \$300,000 and \$500,000 employing from 8 to 19 people; 15,000 in this category employing from 4 to 7 people; and 2,500 in this category employing from 1 to 3 people. In all, there are 47,500 firms which employ 19 people or less.

The impact on many of these small businesses may be such as to cause them to go out of business. Many of them are small establishments with only a few employees, and simply could not afford to pay the rates we are seeking to establish today.

I therefore believe we should broaden the exemption provided in this bill for small business.

I believe the bill clearly does cover those firms in the category between \$500,000 and \$250,000 gross beginning February 1, 1969. Section 102(c)(1) clearly provides for this coverage. Chainstores are not referred to in the section, but rather single enterprises. The section refers to "an enterprise." The amendment would not, as the gentleman from Pennsylvania [Mr. DENT] has intimated, raise the exemption on chainstore establishments presently covered if they gross more than \$250,000.

Individual small businesses are presently covered by minimum wage requirements if they gross more than \$1 million. Under H.R. 13712 the limit would be \$500,000 after February 1, 1967, and \$250,000 after February 1, 1969. My amendment would eliminate this last step, keeping the limit after February 1, 1967, at \$500,000.

My effort in this is complementary to that of my worthy colleague from New York [Mr. REID]. We are both trying to

do the same thing, to protect small business and the labor that would be put out of business if failures were induced by inclusion of firms grossing less than \$500,000. My amendment just goes a little further than his, and if mine is defeated, I shall be glad to support his amendment.

Mr. DENT. Mr. Chairman, I rise in opposition to the substitute amendment for the same reasons, except that I should like to clarify at least for the other Members of the House exactly what is sought to be done.

These amendments, both the substitute and the original amendment offered by the gentleman from New York, seek to uncover establishments which are already covered under the act.

Now, if the gentlemen are talking about the enterprise test, which is \$500,000, that is another matter, but in respect to the enterprise test we are talking about chains, talking about group stores, talking about the A & P, Krogers, and the large chainstores all over the country.

The \$250,000 is in the bill now. The only thing I am trying to tell the House is, if you wanted to do this, you should have done it in 1961 when the bill was before you.

Mr. PUCINSKI. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I agree with the chairman of our subcommittee and I should like to ask the gentleman from New York, a member of our committee who knows I highly respect all of his contributions, something about his amendment. There is no full and comprehensive study of the national figures on this act since February 1, 1967. Does the gentleman agree, since we have had many stores doing \$250,000 in gross volume annually or more who are already covered that at least we ought to take that experience back to 1961 instead of 1967? What is the rationale here?

Mr. REID of New York. The rationale, if the gentleman will yield, is that the present coverage with regard to the definition of "enterprise" stops at \$1 million in annual gross volume of sales. Am I correct in that?

Mr. PUCINSKI. In the original bill. Yes.

Mr. REID of New York. Therefore, there are a number of single establishments, such as a bookstore, a pharmacy, or a small retail outlet, that are presently not under the coverage of the Fair Labor Standards Act and would not be covered until you get down to \$500,000 or \$250,000.

Mr. PUCINSKI. What you provide in your amendment is for some kind of escape valve for the businessman who is in excess of \$250,000 but has difficulty in meeting these fair labor standards that we provide in here. If I may continue, your escape valve says if the Secretary finds the inclusion of such an establishment is not likely to result in substantially increased unemployment. The only trouble with that language is: First, you are assuming putting these stores under minimum wage does lead to unemployment, which, of course, we do not accept because we have had experience since 1961. There is absolutely no evi-

dence before the Congress or the committee to that effect. Secondly, you say "substantially." What would constitute "substantially"? Who would decide what is a substantial increase in unemployment?

I am afraid what you would do here—and I can appreciate what you are trying to do, and I sympathize with it, but I submit that if we were to take this language, it would mean some 4 million establishments in this country could be examined backward and forward and upside down by the Secretary to determine whether or not going under minimum wage in the \$250,000 class is going to create any substantial problems for them.

Now, as to the substitute amendment of the gentleman from New York [Mr. OTTINGER], I think the chairman of the subcommittee has quite properly pointed out we should understand what is the situation now. We now do cover retail establishments doing \$250,000 gross annually if they are part of a chain. So we have had this. To accept your amendment would mean to remove these people from the category and remove about 1 million workers who are now covered. If you want to uncover 1 million workers who are now covered in this bill by your amendment, then I suggest you press for your amendment, but I do not think you want to do that.

Mr. REID of New York. Mr. Chairman, will the gentleman yield first to me because he raised a point on my amendment?

Mr. PUCINSKI. All right.

Mr. REID of New York. The gentleman raised two questions, as I recall it. One was the existing experience.

Section 13(a)(2)(iv) of the present law exempts from coverage an establishment that is part of a \$1 million enterprise if it does less than \$250,000 gross annual sales. In other words, the law now covers \$250,000 establishments only if they are part of a million dollar enterprise, or chain.

It is my understanding the legislation before us would cover a single establishment which has not been presently covered and, therefore, there is not any certain experience.

Second, I am not trying to assume one way or another with regard to the impact of the legislation, but there is a presumption that it could affect some retail and other establishments. What we are trying to do is to make certain that the Congress knows what that impact will be by requiring that the Secretary of Labor make a careful and thoughtful study prior to the extension of coverage. The thought is that we should have a very careful examination because there are some stores in retail and other outlets that will be affected by the Fair Labor Standards Act for the first time by reason of the lower dollar volume test. They are concerned that this could affect their hiring and could, perhaps, result in some curtailment of certain part-time and full-time employment that is often a necessary supplement to other income of the family unit.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from New York [Mr. OTTINGER].

The substitute amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. REID].

The question was taken; and on a division (demanded by Mr. REID of New York) there were ayes 33, noes 38.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. MARTIN OF NEBRASKA

Mr. MARTIN of Nebraska. Mr. Chairman, I offer an amendment, and in order to conserve time, I ask unanimous consent to consider them en bloc because the amendment involves section 102 and also section 201 of the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

Mr. GUBSER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GUBSER. Is this an amendment to section 102?

The CHAIRMAN. The Chair will state to the gentleman from California that it is an amendment to sections 102 and 201 which the gentleman from Nebraska asked unanimous consent to be considered en bloc.

Is there objection to the question of the gentleman from Nebraska?

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. MARTIN of Nebraska: SEC. 102, "definition of Enterprise," on page 33 delete all of lines 18 through line 21, and on line 22, page 33, strike "(4)" and insert "(2)".

SEC. 201. On page 35, line 24, strike out, beginning with the word "engaged", through the word "establishment" on line 25.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Nebraska. I yield to the gentleman from Illinois.

Mr. PUCINSKI. Does the gentleman have a copy of that amendment? We seem to have no copies of it.

Mr. MARTIN of Nebraska. I took a copy of it over to your desk; yes, sir, it is marked "No. 1."

Mr. Chairman, this amendment simply would treat those engaged in the business of laundering and cleaning or repairing clothing or fabrics, or in the construction industry on exactly the same basis as those engaged in other fields of the retail industry or in other fields of endeavor.

Mr. Chairman, under the bill, as drawn—and we just had debate upon the subject—an enterprise will be exempt for the next 2 years, until February 1, 1969, if it does less than \$500,000 in business a year. Thereafter, the exemption drops to \$250,000.

Now, Mr. Chairman, based upon the manner in which this bill is drawn, this exemption does not apply to laundries, dry cleaners or those who work with fabrics, or in the construction industry. I feel it is very important that we be fair and equitable with all areas of businesses, and grant them the same exemption as we do to the druggists and to the groceryman, as well as all the other stores and businesses that are involved in this legislation.

Mr. Chairman, I have here the bill, H.R. 8260, which was the administration bill that was introduced by both the gentleman from New York [Mr. POWELL] and the gentleman from California [Mr. ROOSEVELT] on May 18, 1965, the same date on which we received the President's message in regard to labor.

In that bill which is commonly known as the administration bill, this exemption, the dollars and cents exemption, for an enterprise, for laundries and dry-cleaning establishments, was maintained. But somewhere along the line, it was removed.

I think these people should be treated in exactly the same manner as other businesses. Therefore, I have offered this amendment.

My amendment would delete certain language which starts on line 18, page 33, which language is: "is engaged in laundering, cleaning, or repairing clothing or fabrics;" or "is engaged in the business of construction or reconstruction, or both;".

When you talk about fabrics or repairing clothing, you are talking about the widow dressmaker who makes dresses perhaps for your wife or does some repair work on clothing for you. Maybe she has one employee. There is no exemption allowed under the terms of this bill as it is written for that person. As I pointed out yesterday, drycleaners will have no exemption in this area. We all have drycleaners in our hometowns on our main streets that have one or two employees. These people will have no exemption and will be subjected to the provisions of the Fair Labor Standards Act.

Mr. Chairman, I hope the amendments are adopted and I hope the majority side will accept the amendments.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendments offered by the gentleman from Nebraska.

Mr. Chairman, if ever there was an instance where a person is healthy and another person then determines that the other person has to take some medicine, even at the risk of making the other person ill and insisting on giving them the medicine, this is such a situation.

The laundry industry, the dry cleaners, the clean linen industry all have endorsed this legislation unanimously. They have not asked for any exemptions, either on the part of the owners and operators or on the part of the employees.

This legislation deals with employers and employees. If they are both satisfied, I certainly do not believe they have to be given a dose of medicine when they both appear nice and healthy. Therefore, these amendments are entirely out of order.

This has not been asked for either on the demands of the worker or at the request of the employers.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman.

Mr. COLLIER. The gentleman from Pennsylvania has mentioned the laundry

industry being unanimously in support of this bill. It is not a fact that there are 36,000 coin-operated laundries in this country that are unalterably opposed to this? So when we talk about the laundry industry, I think we ought to have clearly defined what segment of it we are talking about—and I have an amendment in this area which I intend to offer later.

Mr. DENT. I might answer the gentleman by saying that a coin-operated laundry is in the great, great percentage of cases run by an individual and usually is run by an individual under a franchise. In very few instances do they employ anybody in these coin-operated laundries and in most cases they may employ some person to work maybe from 8 o'clock to 12 o'clock or between the hours of 8 o'clock and 10 o'clock and then employ another person to work a couple of hours from 2 o'clock to 4 o'clock and then another person from 4 o'clock to 6 o'clock.

Mr. COLLIER. But whether they employ people or not, they are discriminated against lock, stock, and barrel by this proposal.

Mr. DENT. Maybe they are. But they constitute one element in the whole competitive field in that industry. I do not believe it is the purpose of the Congress to establish a competitive advantage for any of the component parts of an industrial endeavor. They are all treated alike. They are all in competition. What is the difference between a coin-operated laundry and a labor-operated laundry except that one employs more people than the other. How can you justify saying that from now on we are going to exempt an industry that automates and puts in automation and that we are going to stick a heavy tax and a heavy cost on those who still have manual labor in their employ?

Are we trying to say to the people of the United States, "From now on, in order for you to get preferential treatment from your Government, automate, eliminate labor, put yourself in a position where you do not need labor, and we will give you a concession instead of a penalty"?

How can you justify saying the coin operator ought not to be covered?

Mr. COLLIER. I will answer how you can justify this. The patrons, by and large, of the coin-operated laundry, are the people in the lower economic strata who take a quarter, put it in a washing machine, and get their laundry washed in that way. In most instances these people are people who perhaps cannot pay the additional cost of a laundry of another type. Go into any type of coin-operated laundry and that is what you will find. That is the difference.

Mr. DENT. Mr. Chairman, I wish to state that the average employer in his \$36,000 situation—and suddenly it is growing, because when they protested about this they said it was \$22,000—I wish to say for the record that what happened is that up until this bill was introduced it did do one thing. It created employment for a group of unemployed lawyers and public relations people who suddenly realized that here was another group they could sucker into an

organization that would come to Congress and fight for or against legislation. This is a brandnew association.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. DENT. Mr. Chairman, I ask unanimous consent that I may proceed for 5 additional minutes.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. DENT. The situation is such that 1.1 persons per operation is employed in the entire United States. If any coin-operated laundry employs 1.1 persons or, say, 2 persons, and cannot gross enough money to pay \$1 an hour wage, how on God's earth can that particular institution justify its existence? Is it to be allowed to exist only because it can find some poor old man or some poor needy woman in the area who is willing to work for 25 cents an hour in order to keep that business going?

I want to tell you that on my own examination I found that most of the coin-operated laundries, where they have employees, are owned by persons who play golf regularly, who go to Florida regularly, and have come here to Congress crying about being put out of business, riding here in Cadillacs.

Mr. MARTIN of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Nebraska.

Mr. MARTIN of Nebraska. I would like to call to the attention of the gentleman from Pennsylvania that the laundries and dry cleaners of the State of Nebraska are completely opposed to this legislation.

I would like to ask the gentleman another question. You talk about endorsement by the National Laundry Association—

Mr. DENT. Let me answer that immediately while it is fresh. Clearly, then, the State of Nebraska does not belong to the American Institute of Laundering, or they have divorced themselves or seceded, because the institute endorsed it.

Mr. MARTIN of Nebraska. I believe it was endorsed by an executive committee, a small group of this organization that met here in Washington sometime last year.

Mr. DENT. I do not know how many they had at their meeting. I do not even ask questions when you get up and say to me that the bankers endorse this or that. I do not know whether it is one banker or a whole lot of bankers that have been called together. I only say that if an institute or an association does not speak for its members, it ought to be abolished. Or are we now saying what a large number of people have suspected for a long time that some enterprising lawyer gets a laundry and purports to speak for a group; is that what you are saying?

Mr. MARTIN of Nebraska. No. The gentleman is trying to put words in my mouth. I believe the laundries in the District of Columbia have been concerned with this problem because of the fact that they do business across State

lines in Maryland and Virginia. For some time they have been one of the main backers of this particular provision in the act, which I feel is completely unfair, and I do not think it can be justified, when we give under the bill an exemption to all other businesses in the country on the basis of an enterprise test, the total amount of business they do in one year.

Yet we exclude from the exemption the laundries and the dry cleaners, and those who work on fabrics and repair fabrics, and those in the construction industry. I do not believe we are being fair to these industries when we treat everyone else different from these.

Mr. DENT. Mr. Chairman, in answer I might say that the best measure of fairness has to come from those affected. If those affected are not protesting, then evidently we cannot accept the charge of unfairness.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Nebraska [Mr. MARTIN].

The amendments were rejected.

AMENDMENTS OFFERED BY MR. COLLIER

Mr. COLLIER. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. COLLIER: On page 32, line 3, insert "an elementary or secondary school" immediately before "or an institution of higher education".

On page 34, line 2, insert "an elementary or secondary school" immediately before "or an institution of higher education".

On page 34, after line 14, insert the following:

"(d) Section 3 of such Act is amended by adding after subsection (u) (added by section 103(b) of this Act) the following new subsections:

"(v) 'Elementary school' means a day or residential school which provides elementary education, as determined under State law.

"(w) 'Secondary school' means a day or residential school which provides secondary education, as determined under State law."

Mr. COLLIER. Mr. Chairman, these amendments are simple and sound and essential amendments. I do not believe that any Member of this body who believes in the principle and purpose of the bill before us today can oppose them.

What we have done here, if Members will review with me the language of the definition of "enterprise," is to say that in sum and substance the employee who works as a dishwasher in a home for the sick or the aged or the mentally ill, or one who works as a dishwasher in a college or a university cafeteria, or one who works as a dishwasher, for example, in a mental institution, is covered under this bill. Yet, the same employee working as a dishwasher in an elementary or high school cafeteria is not covered.

All I want to do is to establish equity in application of the bill. Let me tell why. I believe I can best explain it by giving an example. This is an actual case.

In a suburban area of one of our southern States, school officials were recently notified that poverty funds were available to hire students who qualified under the poverty family income level at \$1.25 per hour. What happened was this: The same school had working in

its cafeteria women who had been employed for years—in fact, one was a widow—drawing 85 cents an hour for working in the school cafeteria. Yet, children were hand-picked and given \$1.25 an hour to wash the blackboards in the same school.

I do not believe there is anyone sitting in this House today who can justify this type of situation realizing, as we all must, that there will be under the poverty program a \$1.25 hourly wage level. If not, then I would have grave reservation as to the depth of the sincerity such a Member would have in the principle of minimum wage.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. I yield to the gentleman from Illinois.

Mr. PUCINSKI. Mr. Chairman, if I understand this amendment correctly, it will establish a different fair labor standard provision for people presently employed in elementary and secondary schools and universities.

Mr. COLLIER. That is exactly correct. I do not want any inequities such as we have been talking about today. We are moving to achieve equity which means treating everyone alike.

Mr. PUCINSKI. Many of these schools now receive substantial Federal assistance?

Mr. COLLIER. Yes. In fact, in most instances they do. As my friend from Illinois knows, with the existent low pay levels where they are generally found, these areas would be far more likely to receive more Federal aid under the formula of the Federal Aid to Education program.

Mr. PUCINSKI. Has the gentleman discussed this with any educators or administrators of these schools?

Mr. COLLIER. The only time I discuss a matter like this with them is when there is some question in my mind as to the feasibility or the validity of a proposal. In this instance there was not; therefore, I did not.

Mr. PUCINSKI. Let me ask a final question. Would this apply also to private schools which are maintained in many instances by private contributions and which receive no assistance either from a tax-based institution or the Federal Government?

Mr. COLLIER. I am not certain what category of schools the gentleman speaks about, but there has been no breakdown here with regard to whether a school for the handicapped or for the mentally retarded is private or public. Therefore, I did not feel, since there was specific definition in the language of this section of the bill as it applies to the other institutions covered, I did not spell it out; but the amendment covers this point as provided in section 3, subsections (v) and (w).

Mr. PUCINSKI. Let us consider a parochial elementary school, in which the nuns do the work in the cafeteria. Would they have to be paid a minimum wage?

Mr. COLLIER. No, they would not be covered.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. I am delighted to yield to the gentleman from California.

Mr. BURTON of California. As I understand, it is not the gentleman's intention to include members of a religious order under the definition of an employee, and therefore a nun would not be considered an employee. Therefore, a minimum wage would not be required to be paid a nun. Am I correct in my understanding of the gentleman's intention?

Mr. COLLIER. That is correct. I did not intend to cover them. I am merely trying to achieve equity and equal application of the principle of the law to people doing the same type of work, whether it is in a university or a public elementary or secondary school.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. I am delighted to yield to the gentleman from Pennsylvania.

Mr. DENT. The gentleman's evident sincerity in this area has struck me with a warm and corresponding chord. I accept his amendment.

Mr. COLLIER. I thank the gentleman. It now makes it possible for me to vote for the bill, I might say to the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois [Mr. COLLIER].

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. ANDERSON OF ILLINOIS

Mr. ANDERSON of Illinois. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. ANDERSON of Illinois: On page 33, strike out lines 6 through 17 and insert in lieu thereof the following:

"(1) is an enterprise (A) whose annual gross volume of sales is not less than \$500,000 (exclusive of excise taxes at the retail level which are separately stated) (B) which has one or more retail or service establishments, and (C) which purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more;

"(2) is a gasoline service establishment whose annual gross volume of sales is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated);

"(3) is an establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000;"

On page 33, line 18, strike out "(2)" and insert in lieu thereof "(4)"; line 20, strike out "(3)" and insert in lieu thereof "(5)"; and, in line 22, strike out "(4)" and insert in lieu thereof "(6)".

(Mr. ANDERSON of Illinois asked and was given permission to revise and extend his remarks.)

Mr. ANDERSON of Illinois. Mr. Chairman, when the debate on this bill opened yesterday, the gentleman from Pennsylvania, the author of the bill [Mr. DENT], said that he was going to look with great suspicion on those who might offer what could be considered as gutting amendments; those who were not in favor of the legislation at all to begin with and, therefore, were going merely

to stand up here in the well of the House and offer amendments which, even if adopted, would not cause them to vote for this bill. Perhaps I need not remind the gentleman from Pennsylvania and others present here today that I voted for a rule on this bill and, I may say, to the surprise of some people when it was before the Rules Committee a few days ago. I did that because I sincerely and honestly wanted to bring this bill to the floor of the House. I appreciated the fact that the House ought to be given an opportunity to work its will and, if it could, to improve this bill. So I offer, I assure the gentleman from Pennsylvania, this amendment in that spirit this afternoon.

A few minutes ago we witnessed an unsuccessful effort and a bipartisan effort by the gentleman from New York [Mr. OTTINGER] and the gentleman from New York [Mr. REED], you will recall, to try to do something to soften the impact of this legislation on the small businessman and the small-town merchant. They would have done it by deferring the application of this bill for 1 year, until 1970, and they would have provided that the Secretary of Labor should establish a commission first to examine what the economic consequences of taking in a business doing only \$250,000 a year would be. In other words, what the economic consequences on the employment would be. Mine is a far more simple test than that. I am sure you caught it if you listened to the reading by the Clerk of this amendment. It would simply hold the line at \$500,000 and say we will not go below an annual gross sales volume of \$500,000 a year with respect to retail establishments in deciding whether a particular retailer is covered.

I was here in the 87th Congress and I well remember the titanic battle that was waged on the floor of this House at that time with respect to the so-called \$1 million test. I opposed that bill because I thought this was torturing the interstate commerce clause of the Federal Constitution beyond all recognition to say that merely by adopting a test of dollar volume you could say a man was covered by a statute under the commerce clause of the Federal Constitution.

Let me tell you this: If \$1 million was torturing the interstate commerce clause beyond recognition, what have you got if you adopt a bill that takes it down to \$250,000? More than that, I would remind you of this: I feel pretty sure if we pass this bill in the precise form that it was reported out by the Committee on Education and Labor, if we pass it in this form today, then it is only a question of time before that \$250,000 limitation has been progressively reduced to maybe \$150,000, \$100,000, and then completely eliminated. I find it just a little ironic this morning that I read in the paper that the President hails small business. President Johnson presented a plaque to the small businessman of the year, a man from Puerto Rico who is here with his family. He proclaimed this Sunday will begin Small Business Week. I find it not only ironic but a little bit inappropriate in a week that is dedicated to the small businessman that we should now

say literally a little corner grocery store, because that is what you can have with a \$250,000 sales volume test that becomes applicable in 1969—you could have a little store with two or three employees doing only \$700 or \$800 worth of volume a day covered under this act. You know, I am sure you have had the same experience I have had. Even more than the wage, it is coming under the Wage and Hour Administration and trying to interpret and decipher these regulations that bother the small businessman. I had one tell me just yesterday the very first regulation that was issued for small retail stores with the \$1 million test came out in the 1961 legislation. The first regulation that was issued was 93 pages long. He had to go down to a lawyer and hire some legal advice in order to decide whether or not this applied to him or to someone else.

Mr. Chairman, it is this kind of regulation which is involved. It does not have to do with the big businessman. I do not plead today for the chainstores or the big businessman. But I say for heaven's sakes in our zeal to legislate across the board, we should legislate uniform equality in this area. Let us not be so ridiculous as to take this thing, to bring even in a little merchant who is doing \$250,000 a year in business.

Mr. Chairman, there was an article which appeared a few days ago in one of our Nation's magazines to the effect that, "Will Congress Kill Main Street?" Frankly, I think the article was a little exaggerated, but I do think in small business, when we are considering the small businessman, we should not want to take any action on the floor of this House this afternoon which might expose us to the charge that we are killing off the small merchant on Main Street.

Also, Mr. Chairman, there is an article with reference to a business which is operated in the home State of our distinguished majority leader, the gentleman from Oklahoma [Mr. ALBERT], where they were going out of business because of the impact of this law.

Mr. Chairman, I am sure the gentleman from Pennsylvania [Mr. DENT] does not want that to happen.

The gentleman from Pennsylvania said when he opened this debate—and I know with sincerity and I applaud him for it—that there was not one line written into this bill with the intention of trying to hurt anyone, and I am sure he means that. But at the same time we know that on occasion we have overzealous administrators who get into the act and who undermine the congressional intent of the legislation.

Mr. Chairman, I would ask the House to support the limitation and to retain the limitation of \$500,000.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, this amendment does about the same, or serves the same purpose as the amendment offered a little while ago which was defeated by the House.

Mr. Chairman, the truth of the matter is that a \$1,000 a day establishment in the retail business is not a very small business. The vast majority of retail establishments in the United States do less than \$50,000 a year.

Also, Mr. Chairman, in talking about the small towns, if there were one store in that town that does \$250,000 a year, it has buying capacity and buying power that certainly more than equalizes its competitive potential, and enjoys an advantage with the smallest store that is not covered.

Mr. Chairman, your committee went into this matter very thoroughly. We studied every possible angle and that is why we have a different test for enterprise than what we have for establishments.

Mr. Chairman, we tried in the best way we could to keep competition within the ability of the competitors to buy and still be equally competitive.

Mr. Chairman, I believe if one examines the bill thoroughly, one will find that I was telling the truth when I said there was not a line contained in this bill that intends to, or does, in fact, harm any individual.

Mr. PUCINSKI. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I wonder if I can have the attention of the gentleman from Illinois [Mr. ANDERSON]?

Mr. Chairman, in speaking of that store that went out of business in Oklahoma, that store under the present law, comes under the \$1 million test. So, it would have to be a pretty big operation before it would have to start paying the minimum wage and the overtime.

Mr. ANDERSON of Illinois. Will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. My point is, if the gentleman will yield—

Mr. PUCINSKI. I do not think, if the gentleman will let me finish, if we had all the facts before us, that that store went out of business because of this law, because we have not had a single piece of evidence presented before this committee in testimony to the effect that any store has gone out of business because of this law.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman now yield?

Mr. PUCINSKI. Yes, I would be very glad to yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. If you grant the premise—and it is stated in this article—and, of course, the gentleman can stand up and say it is not so, and I say it is so, and there we are—but if you grant the premise that a store belonging to a particular chain—and you say it is and I say it was not—if a chainstore doing \$250,000 a year is going to go out of business because of the minimum wage with all of the mass buying power that is available to a chain that it is not available to the corner groceryman or the corner druggist or the retailer who does not belong to a chain, what is the impact of this \$250,000 test upon him?

Mr. PUCINSKI. That is precisely why we have drawn a difference. You know if you will take the trouble to read this bill, you will see that this committee has tried to protect all interested parties in America.

Mr. ANDERSON of Illinois. I assure the gentleman that I have read it very carefully.

Mr. PUCINSKI. We have recognized that this store which is a part of a huge multimillion-dollar chain has many advantages in terms of advertising, bulk buying and various other things so we have provided that that store which is a part of a big chain that the test there would be \$250,000.

Mr. ANDERSON of Illinois. But you are going to have the same test apply for an individual store that is not a part of a chain.

Mr. PUCINSKI. But that individual corner store that you are talking about standing alone has to do a million dollars gross annually before it is covered by this bill at the present time.

Mr. ANDERSON of Illinois. But under this bill by 1969, the test will not be a million dollars; is that not correct—it will be \$250,000?

Mr. PUCINSKI. That is correct. Under the terms of the bill, it will be \$500,000 in 1967 and \$250,000 in 1969.

But will my colleague also recognize the fact that the wage scale is deescalated also because we recognize all of these things have to be done slowly and cannot be done overnight so as to upset the economy. So you have the wage scale moving up at the same time you have the gross volume test coming down. So you do have that cushion that the gentleman seeks to provide for in his amendment.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman.

Mr. DENT. Mr. Chairman, so that the Members will not be confused by all these figures, let us get the figures straight. There are a total number of covered employees now in the retail stores of 3,642,000. This amendment covers 1,500,000 more employees. But it leaves uncovered in the United States 2,142,000 employees.

Therefore, we are not reaching down into the little corner store.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. GOODELL. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, I would simply, to keep the record straight, point out that the amendment offered by the gentleman from Illinois [Mr. ANDERSON] applies at the last stage when the move is from the enterprise test of \$500,000 to \$250,000 a year. What the gentleman from Illinois [Mr. PUCINSKI] has said with reference to the establishment and the enterprise being distinct and our committee taking good care to distinguish these two does not apply after 2 years. When the enterprise test goes from \$500,000 to \$250,000 on February 1, 1969, the enterprise test and the establishment test would be precisely the same. That is the point I believe the sponsors of this amendment are making—when you reach that stage of a \$250,000 enterprise test, you are treating the large enterprise exactly the same as the small individual store.

In 1969, an establishment that is a part of a large enterprise will be covered in exactly the same way as the small store and vice versa. That being the situation, I think we would be well advised to postpone any determination as

to whether we ought to move this enterprise test from \$500,000 to \$250,000. This is not going to occur in the next year or two. This committee and this Congress have ample opportunity to examine the question as to whether we ought to reduce the enterprise volume test any further.

Let me say further, I agree with what the gentleman from Illinois said in the well of the House in offering this amendment. In 1961 we faced this issue and we talked about the volume of business test in terms of the interstate commerce clause. Unfortunately, we lost at that stage.

It is absolutely true that today all the Congress has to do to include virtually everyone in this country under the minimum wage legislation is to reduce the dollar volume test. That is all we have to do—to cross out "\$1,000,000" and make it "\$500,000" and cross that out and make it "\$250,000" and all the way down—if we want to—to \$50,000 eventually, or to \$10.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman.

Mr. ANDERSON of Illinois. I have just been reminded, Mr. Chairman, that back in 1961 when we were considering this matter before, when this House adopted a substitute, which was the Kitchen-Ayres bill, you will recall that at that time it did not use the dollar volume test—it did not have the \$1 million test—that was put into the bill in conference and not put in initially by the action of this House.

I think the gentleman from New York [Mr. GOODELL] has performed a great service today by putting his finger exactly on the point we are trying to make that we do not want to take that small, independent businessman who is not part of a chain and who does not have all the advantages that the chainstore buyer has so far as the mass purchasing power and the advertising and so on is concerned and say, You have to be lumped into the same category with that fellow who belongs to a chain and who does \$250,000 a year.

I would ask the gentleman from New York this question: Do you think that my assumption is entirely unreasonable, that unless we hold the line at \$500,000 today, in the next Congress, or shortly thereafter, we may see an attempt to repeal any exemption whatever, in view of the fact that this bill provides with respect to laundries, cleaning establishments, and so on, that no volume dollar test is to be employed?

Mr. GOODELL. I have no doubt whatsoever that that is the direction in which we are moving, and we are going to continue to reduce the amount until we cover virtually everyone.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from Pennsylvania.

Mr. DENT. The committee has attempted to carry out the philosophy of extending the differential between the independent store and the chainstore below the \$500,000 volume, and if you

will read the Roosevelt bill, you will find that the Roosevelt bill went down to \$150,000 for the establishment test and maintained the \$250,000 for the independent store test. However, no greater howl has been heard in this Congress that when the Roosevelt bill hit this floor for action and was presented. There was never a greater complaint made. That was in reference to the \$150,000 test. When you get to \$250,000, you are talking about a competitive level where the component part of the chain is a very small component part as related to the big chain.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. GOODELL. Mr. Chairman, I ask unanimous consent that I may proceed for an additional 3 minutes.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. GOODELL. I yield to the gentleman from Pennsylvania.

Mr. DENT. Upon examination we find that of 42 separate chains, operating mainly in the Western and Southern States, they are indeed in competition, but none of their component parts do better than \$300,000 a year. They are small chains, all small stores operating in rural areas rather than in urban areas.

After much deliberation, the committee decided that the \$150,000 test was unfair to those small operating chains which are a group of individual owner-ships under a chain management for buying purposes only. This is the truth of the matter and is not intended to hurt any individual store.

Mr. GOODELL. The gentleman from Pennsylvania has very adroitly turned the argument. It is true that under the Roosevelt bill we covered establishments that did more than \$150,000 business a year. We have moved that establishment test up to \$250,000 a year. The fact remains that in 1967 this bill would reduce the enterprise test to \$250,000 a year, and at that stage your individual private store, not part of a chain, will have exactly the same test of coverage, \$250,000, as the large enterprise. That is the point that is made by the gentleman from Illinois in offering this amendment. I think we have ample time between now and February 1, 1969, when this is supposed to be triggered, and we move from \$500,000 to \$250,000 in the enterprise test, to consider this in the Congress, to evaluate its impact, and to make whatever changes we feel necessary at that point.

I urge the adoption of the amendment of the gentleman from Illinois.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. ANDERSON].

The question was taken; and on a division (demanded by Mr. DENT) there were—ayes 82, noes 74.

Mr. DENT. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. ANDERSON of Illinois and Mr. BURTON of California.

The Committee again divided, and the tellers reported that there were—ayes 120, noes 109.

So the amendments were agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Agricultural employees

SEC. 103. (a) Section 3(e) of such Act is amended to read as follows:

"(e) 'Employee' includes any individual employed by an employer, except that such term shall not, for the purposes of section 3(u) include—

"(1) any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family, or

"(2) any individual who is employed by an employer engaged in agriculture if such individual (A) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (B) commutes daily from his permanent residence to the farm on which he is so employed, and (C) has been employed in agriculture less than thirteen weeks during the preceding calendar year."

(b) Section 3 of such Act is further amended by adding after subsection (t) (added by section 101(b) of this Act) the following new subsection:

"(u) 'Man-day' means any day during any portion of which an employee performs any agricultural labor."

AMENDMENT OFFERED BY MR. MARTIN OF NEBRASKA

Mr. MARTIN of Nebraska. Mr. Chairman, I offer an amendment, and again I would like to ask unanimous consent that it be considered en bloc at this time, in order to conserve time, because it does cover four different sections of the bill regarding agricultural employees.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

Mr. DENT. Mr. Chairman, I would like to have a complete copy of the amendment, because I am honest in saying to the House that if you are all as aware of what went on a minute ago in that amendment as I consider myself to be, then you are ignorant about the amendment. All we do is go back to the \$1 million test. Those of you who want to go back to the \$1 million test, all right. That was before 1961. However, I want to see the entire amendment at this time.

Mr. MARTIN of Nebraska. My amendment has nothing to do with the \$1 million test.

The CHAIRMAN. Does the gentleman from Pennsylvania object to the request?

Mr. DENT. Yes.

The CHAIRMAN. Objection is heard. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. MARTIN of Nebraska: On page 35, between lines 14 and 15, insert the following:

"DEFINITION OF WAGES"

"Sec. 103. Section 3(m) of the Act is amended by inserting immediately before the first proviso and after the word 'employees', the following language, 'Provided, That such cost shall be determined in each State, subject to the approval of the Secretary of Labor, by the appropriate State agency or officer.'"

Mr. DENT. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman from Pennsylvania will state his point of order.

Mr. DENT. Mr. Chairman, I cannot follow the amendment.

The CHAIRMAN. The Clerk will re-report the amendment.

Mr. DENT. This amendment is practically a rewriting of the entire section. In decency and fairness, I think we ought to have a copy of it.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. MARTIN of Nebraska:

"SEC. 103. Delete section 103, entitled 'Agricultural Employees', beginning on line 15, page 34, through line 14, page 35."

Mr. MARTIN of Nebraska. Do I have unanimous consent, Mr. Chairman, for the other sections to be considered at this time or not?

The CHAIRMAN. There was objection to the request.

Mr. DENT. Mr. Chairman, if the gentleman will allow me to ask one question, he may get his request.

The CHAIRMAN. Will the gentleman from Nebraska yield to the gentleman from Pennsylvania?

Mr. MARTIN of Nebraska. I will be happy to yield.

Mr. DENT. All I have is one single-line copy here. I understand from what I can read of what you have given me the entire purpose of your group of amendments is to strike from the bill all reference to agricultural workers.

Mr. MARTIN of Nebraska. That is correct. This amendment would strike the entire agricultural section of the bill. The reason that the other sections are in there is to correlate them with the amendment which I have offered and in order to expedite the work of the committee and in order to save time.

Mr. DENT. Mr. Chairman, I withdraw my objection to the consideration of the amendments at one time.

The CHAIRMAN. The gentleman will restate his unanimous consent request.

Mr. MARTIN of Nebraska. Mr. Chairman, I ask unanimous consent to consider this amendment en bloc.

The CHAIRMAN. Is there objection? There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendment offered by Mr. MARTIN of Nebraska:

Delete section 103, entitled "Agricultural Employees", beginning on line 15, page 34, through line 14, page 35.

Delete section 203, entitled "Agricultural Employees", beginning on line 5, page 37, through line 14, page 38.

Delete section 302, entitled "Agricultural Employees", beginning on line 18, page 47, through line 3, page 48.

Delete section 501 (c), beginning on line 4, page 56, through line 17, page 56.

Mr. MARTIN of Nebraska. Mr. Chairman, this is one of the most important amendments that will be offered to this bill, because the purpose of these amendments is to strike the entire agricultural coverage from this legislation.

Traditionally, Mr. Chairman, agriculture has been excluded from the Fair

Labor Standards Act because of the very nature of the business itself. It is composed of millions of components throughout the country. It is composed of independent operators who operate a business entirely different than any other in the country, because they have little or no say as to what price they are going to sell their product.

Mr. Chairman, agriculture has been in serious economic straits in this country for not only several years, but for many years.

Mr. Chairman, let me give to the Members of the Committee an indication of this situation, as published by the U.S. Department of Labor in January 1966, in regard to farming in this country.

The total farm population in the United States in 1940 was 30.5 million. In 1960 it was down to 15.5 million. In 1964 it was down to 12.9 million.

The number of farms in the United States, according to the Department of Labor, in 1940, was 6,350,000. In 1964 it was 3,472,000.

Mr. Chairman, let me give to the Members of the Committee some further information: According to the Department of Agriculture, in a report issued in April of this year, last month, there was a decrease in the total number of farm employees, farm laborers on the farm, in the United States, from 1 year ago of 393,000.

The decrease in the number of farm employees in the United States in agriculture has been following this trend for many, many years. Here we are coming up with a piece of legislation that is going to aggravate the situation and contribute further to the decrease in the farm population and in the number of jobs on the farm.

I also have some statistics here in regard to the average wage rate in the United States put out by the Department in an April 11, 1966, release.

The average wage rate in the United States on farms today is \$1.28 an hour which is considerably above this minimum which is proposed here.

You might say to me, that is a good argument why we ought to have it, because it is not going to affect anyone. But, as I pointed out yesterday, Mr. Chairman, this is only a foot-in-the-door approach.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MARTIN of Nebraska. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

Mr. RACE. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. MARTIN of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. BELL. I yield to the gentleman.

Mr. MARTIN of Nebraska. Mr. Chairman, the fact that the average farm wage in the United States is \$1.25 an hour can be used by the proponents of this legislation to say, "Well, you do not need it." But, Mr. Chairman, the history of this legislation is that the next Congress or a subsequent Congress will come along and increase the minimum wage which currently, as proposed in the

bill, would go up to \$1.30 and in a couple of years will bring it up to \$1.75 and then on up to \$2 and provide for overtime for everything over 40 hours a week. You know what that will do to our agricultural economy.

Then we have another provision here that provides that there is a value to be determined by the Secretary of Labor in Washington for any food and housing that is provided for a farmworker. That is all right—I am in favor of that. But as the gentleman from Virginia [Mr. SMITH] pointed out in our hearing before the Committee on Rules, I understand it is customary in Virginia to give a farmhand 300 pounds of fresh pork. When the farmhand gets the 300 pounds of fresh pork, he salts it down and uses it in the months ahead.

Now what is the Secretary going to do? Is he going to make a determination on whether this hog is a No. 1 or a No. 2 or No. 3 hog and make a determination as to what kind of cuts there are? How is he going to determine the value of this food and the value of the lodging that is furnished to these farmworkers?

Mr. Chairman, this is a very important amendment. It is going to accelerate the decrease in the population of our agricultural areas throughout the country. It will result in fewer jobs on the farms. It will put our schoolchildren out of work so far as getting summer jobs and working on a seasonal basis. This is going to deprive these young people of the opportunity to go out in the summertime and get a job and earn a few dollars and learn the value of a dollar by the sweat of their brow—jobs that will help them to continue their education and help them to buy the necessities of life.

Mr. Chairman, I hope this amendment is approved.

Mr. RESNICK. Mr. Chairman, will the gentleman yield?

Mr. BELL. I yield to the gentleman.

Mr. RESNICK. I have one brief question, if I may ask the gentleman from Nebraska this question. That is whether there is any correlation in his mind between the severe shortage of farm labor and the fact that they are being paid virtually starvation wages.

Mr. MARTIN of Nebraska. I think the gentleman is entirely incorrect when he talks about starvation wages and I would venture to guess that he has very little firsthand information about agriculture.

In the first place, when you are looking for farm labor, you are in competition with the labor market and competing with other industries and businesses that are asking for that labor. So the farmer has to gage his employment scale on the same basis with his competition.

In my State of Nebraska the going wage is \$1.50 an hour for agricultural labor because they cannot get anyone for less than that.

Mr. BELL. Mr. Chairman, the important point about the agricultural features of the bill is that the people involved are those who have been left at the bottom of the economic ladder. They, more than any other group in our Nation, need to be covered. The agricul-

tural people are at the very bottom of the economic ladder.

I wish to point out also that this bill does not involve overtime for agricultural workers. They are not included. All overtime would be excluded. There is no more overtime, I should say. Family farms would be excluded. When we speak of the farms that will be covered under the bill, we are talking only about 1.6 percent of all the farms in the Nation.

Let us again go over the amount of the wage. The minimum wage would start at \$1 an hour in 1967 to \$1.15 an hour in 1968 and \$1.30 an hour in 1969. At a \$1.30 an hour the minimum wage amounts to \$2,700, which is below the poverty level of \$3,000. Only the large farms would actually be covered on the 500-man-hour basis. That means that seven men must be employed on a farm, to fall under the 500-man-hour requirement.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. BELL. Mr. Chairman, I ask unanimous consent that I may proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California? The Chair hears none. The gentleman is recognized for 5 additional minutes.

Mr. BELL. Mr. Chairman, I speak in behalf of California because California is already paying wages above the minimum wage, despite the fact that we have an unfavorable competitive hauling problem. Yet we are still paying above the minimum wage. Since 1963 California wages have gone from \$1.32 per hour to \$1.35 in 1964, to \$1.42 in 1965, and \$1.50 in 1966. In addition, as I have said, we have an unfavorable competitive hauling problem in California or we are at a competitive disadvantage from the standpoint of shipping farm goods to the East. Yet we are still paying higher wages.

Actually, Mr. Chairman, this is a bill that will keep the large farms from having the advantage that they already have over the small farms by not paying higher wages. Since the large farms have not been paying higher wages, either, they have a competitive advantage over the small farms.

Mr. Chairman, I oppose the amendment of the gentleman from Nebraska.

Mrs. GREEN of Oregon. Mr. Chairman, I rise in opposition to the amendment. Studies of the Department of Labor show that in the United States today 45 percent of all farmworkers receive less than 75 cents an hour, that 52 percent receive less than 85 cents an hour, and 56 percent receive less than \$1.

Mr. Chairman, we have heard a great deal about poverty in this country. This Congress has passed war-on-poverty legislation. The gentleman who offered this amendment to strike all the agricultural workers, if my information is correct, voted for the original poverty legislation. In my judgment, if we really mean business in the war on poverty, the piece of legislation that is before us to-

day will do more to eliminate poverty in this country than any other possible piece of legislation that this Congress could pass. Let us establish and increase the minimum rate for agricultural workers and decrease the amount given out in welfare payments.

What are we doing, if we approve the bill that has been offered by the committee? We are saying to a person who works today full time for 40 hours a week, and if he is paid the \$1 minimum hourly wage for a full year of 52 weeks, he would receive a total, the magnificent sum of \$2,008. On the other hand, if we accept the amendment of the gentleman from Nebraska, we will continue at the sums of 75 cents or 85 cents an hour, and the heads of families and full-time employees will be receiving about \$1,500 a year—hardly a living wage in a country that supposedly has the highest standard of living in the world.

We talk about breaking the welfare cycle, getting people off the welfare rolls. In agriculture, these are people who want to work, who want to walk in dignity. We ought to make it possible for them to get off the welfare rolls and live a decent life, and not have them existing on \$1,500 a year, which is half the poverty level as generally recognized.

There was a group of people—welfare recipients—who were inspired to take courses for 6 months, so they could get off the aid for dependent children, the ADC program. They took courses and completed the 6 months of work. They went out and applied for jobs. They were offered salaries of 60 cents, 75 cents, or 85 cents an hour, which is similar to what the gentleman from Nebraska says we should continue to pay agricultural workers. Instead of taking the jobs at 60 cents and 75 cents an hour, these people simply said "We cannot support our families on that. We have to go back on the welfare rolls."

I suggest if we want to do something about poverty, it would make more sense to establish a minimum wage on which people can live—instead of being forced to the alternative—that of giving out a dole.

In addition to that, if there is any single group in the United States which is at the bottom of the economic scale it is the agricultural workers. One witness appeared before our committee and said this:

The miserable existence which these workers and their families must lead on such earnings can be largely attributed to the specific exclusion of workers in agriculture from the protection of social legislation that has benefited other American workers for a quarter of a century.

This type of testimony was restated by other witnesses. It is documented by the personal knowledge all of us have.

If we are to adjust the minimum wage today in any specific category, it seems to me we should begin where the need is the greatest, where people are not organized, where there is not and has not been any voice in the making of policy at the State or National level.

After having said this, may I say one other thing: I had hoped to offer a substitute amendment at this point—but I am not allowed to under the parliamentary procedure. However, I do intend to offer an amendment as soon as it is possible—which would make an exemption primarily designed for young people. It does seem to me that children who work for less than 13 weeks during the summer and who try to earn money so they can continue on in high school, or earn their spending money, should not be prohibited by legislation from working in the harvest field on a piecework pay basis.

I believe children 14 and 15 years of age and other temporary summer employees are in an entirely different category from the heads of families who are working full time. I hope and plead with the Members that we do not accept the amendment offered by the gentleman from Nebraska, that would strike out the only protection the agricultural workers of this country might have. That, instead, we give them a chance to earn a decent wage, so they can get off welfare and break the cycle of poverty and walk with dignity along with the other people of this country.

Mr. GURNEY. Mr. Chairman, I rise in support of the amendment, and move to strike the requisite number of words.

(Mr. GURNEY asked and was given permission to revise and extend his remarks.)

Mr. GURNEY. Mr. Chairman, I support this amendment. As the proponent of this amendment stated when he offered it to the House, this is surely one of the most important amendments to this legislation that we have under discussion today.

The gentlewoman from Oregon just made a point which I think is significant. She said that for 28 years we have had no legislation in this field. That is so. In 1938 we had our first minimum wage law. We have had six, as I recall, since then. Each time the agricultural workers have been exempted. I submit to this House of Representatives that there probably is a fairly sound reason why that is so.

We have heard here in the discussion in the last 2 days, and we have heard just now, that agricultural workers are mistreated in this country.

A great case is made that they are at the low end of the economic scale, and I believe there is some point to be made there.

But there is another side to the story. Let me give a few facts of life in respect to my home State of Florida.

The No. 2 industry in Florida is agriculture. The No. 1 industry within the industry is citrus. Our average wages this year paid to citrus workers in the State of Florida were \$1.97 an hour. This does not sound like starvation wages to me.

I have here a letter, under the letterhead of the U.S. Department of Labor, signed by Secretary Wirtz, which commends the Florida citrus industry for the wonderful job it is doing in respect to wages.

The same is true in other areas of Florida agriculture.

One of the great vegetable growing industries is in Florida. While it does not quite equal the wages paid by the citrus industry, it does well.

So I say again that agricultural wages are good now.

There is another problem in Florida, the same problem the proponent of this legislation mentioned, which is a rapidly and completely deteriorating farm labor situation which goes downhill with each succeeding year. The reason why it does is we have continuing and increasing interference from the Federal Government in this whole labor area, which is downgrading our employer-employee relationship and making it exceedingly hard for Florida farmers to make a living.

Each year we find this is true: In Florida the people in the farm labor field want to work in lesser numbers, and they want to earn less.

This is also true: Each year we have found that our vegetable crop losses and our citrus crop losses are growing, because we cannot field the proper amount of labor to harvest these crops at the proper time.

I have documented here—and I wish I had time to go into this at length—case after case after case in Florida agriculture of losses this year and last year, and of growers who have said they will cut their acreage next year because they cannot field the farm labor necessary.

This is a letter from one of the chief vegetable and citrus growers in my area. He is not in my congressional district, but in a neighboring district. He operates throughout all the State of Florida.

This grower gives statistics which came from his payrolls. This is a direct answer to the gentleman from New York, who seemed to question the statement I made that workers do not want to work as much and they do not want to earn as much in Florida.

Let me give these figures taken right off the books of one of the biggest vegetable growers in the State of Florida.

In the 1964-65 celery season in Florida the average cost per crate—this is what is earned by the man who packs the crate—was 38.7 cents, and the average number of crates packed on a weekly basis was 106.9.

Now let us come to this season. The wage was boosted to 49.6 cents. Incidentally, that is a rise of about 25 percent in what the man earned per piece compared to last season. That is a substantial increase. But how much did the man pick? He picked, instead of 106.9 crates on a weekly average, only 90.3 crates, a decrease of 18 percent.

One might say that this does not make any sense, that a man should want to work less and not want to earn more. The reason is that many agricultural laborers, I do not say it is true of all, but it is true of a substantial number, have certain limited goals of money. They want only to work long enough to keep them in a certain low standard of living.

Sometimes in Florida cities, he earns this sum in a half week and then he quits for the rest of the week.

In a few documented cases, the worker is satisfied with 1 day's work.

Ofttimes, the worker will play the relief roll game, working a few days and then going on relief, unemployment rolls for the balance.

In other words, the more the pay is increased, the less work that is done.

Without question, so far as Florida agriculture workers are concerned, raising minimum wages will simply mean less work done by a certain percentage of low income workers.

Good workers will not be helped. Poor workers will be encouraged to do less.

Mr. Chairman, I wish to speak further, to certain parts of this very important bill, H.R. 13712, which affects the minimum wages of almost 37 million workers in this Nation, 7¼ million of whom will be brought under the Fair Labor Standards Act for the first time.

Of particular importance to my State of Florida, as well as many other States, are portions of the bill which affect agricultural workers, restaurant workers, and motel and hotel employees. I will speak to these portions at greater length shortly.

But at the outset, I think it appropriate to remark generally on the bill. All of us in this House are sympathetic to the problems of working men and women. We want them to earn adequate wages, in order that they may provide themselves with all of the things of life that are important to each one of us—adequate food, clothing, housing, with a little left over for the pleasures of life. It is to this general problem that this bill is directed.

In the case of many issues that come before the House of Representatives however, there is a grave question in the minds of many whether certain legislation will have the beneficial effects that the proponents claim will be derived.

Times change, social and economic patterns vary, but the effects of unnecessary Government meddling do not change. One of the basic rules of Government, which was so aptly expressed by both Jefferson and Lincoln, is that the best government is the least government. This is just as true today as it was a hundred or two hundred years ago in this Nation, or many hundreds of years ago in ancient civilizations.

So the question here surely is whether further Federal legislation in the field of minimum wages is necessary at this time, particularly as it affects certain industries.

Why is there a need for minimum wage legislation at this time? The reasons must necessarily be because people are not being paid enough. Or because employers are taking advantage of their workers, and paying them less than they are worth.

We should ask ourselves if this is the case.

If we are to believe the Johnson administration, if we are to believe the statistics constantly bombarding the Nation from the Departments of Labor and Commerce and Agriculture and others, they tell us that the Nation has never had it so good. Never have we been more prosperous. Never has there been a

time of more employment. Never a time of less unemployment.

And the clincher here is the argument that the administration tells us again and again, never has there been a time when wages have been so high.

In fact, the constant fight between the administration and unions is that the unions want too much in wages, so the administration says. The President and his advisers plead, beg, and sometimes threaten that union leaders and their people stay within the 3.2 percent cost-of-living guidelines that the administration has set down. The union leaders do not like to live within these guidelines.

Yet here, when wages have never been higher and the guidelines, according to the administration, are 3.2 percent, we have a bill proposing to hike the minimum wages from \$1.25 to \$1.40 and then \$1.60, an increase of 12 percent initially and then 14 percent or a total increase of 28 percent over the present \$1.25.

This is a tremendous hike in a short time, and it is bound to do one thing, if nothing else. It will add fuel to the fires of inflation, which we are waging a nip-and-tuck struggle to control right now.

What are we thinking of here in time of war, with every manner of employer in this Nation complaining about shortage of labor, with wage and price ceilings rising like a hot-air balloon? What kind of judgment are we using here in the House of Representatives to further aggravate the situation in a drastic minimum wage bill?

I think the question is much more basic than some of the arguments I have heard here in the House the last 2 days. Proponents of the bill continue to run down and deride those who question the wisdom of increasing minimum wages at this time. They say that their opponents are people who constantly oppose everything, and are unfriendly to the workingman and his cause.

I should like to point out that it may be the proponents of this bill themselves, who are not the friends of the workingman. The bill proposes to help the worker on the lower end of the economic scale. This bill may actually hurt him.

The point has been made and substantiated by some of the most eminent economists in this Nation, that increasing minimum wages does not help the worker on the lower end of the economic scale, but results in his direct detriment and injury.

For example, Dr. James Tobin, the late President Kennedy's economic adviser, Dr. Arthur Burns, former head of President Eisenhower's Council of Economic Advisers, and Dr. Gottfried Haberler, economic professor at Harvard University, all have expressed opposition recently to minimum wage laws.

As Professor Tobin put it:

People who lack the capacity to earn a decent living need to be helped, but they will not be helped by minimum wage laws, trade union wage pressures or other devices which seek to compel employers to pay them more than their work is worth. The more likely outcome of such regulations is that the intended beneficiaries are not employed at all.

It is an economic fact of life that all during the time that minimum wages

have been increased, and there have been six such instances during the last approximately three decades—this bill will be a seventh minimum wage law, all during this time the proportion of unemployed among the unskilled workers, among teenagers, among females and nonwhites, has been growing. For example, Professor Burns has pointed out in an analysis of this problem that the ratio of the unemployment rate of teenagers to that of male adults was invariably higher during the six months following an increase of minimum wage than it was in the preceding year.

As Professor Burns has put it in his own language:

The board result of the substantial increase of the minimum wage in recent years has therefore been a curtailment of job opportunities for the less-skilled workers.

Professor Habeler of Harvard has expressed it in this language:

Raising the minimum wage would thus be an irresponsible, anti-social measure, reducing job opportunities of the poor, promoting inflation and retarding growth.

I suggest to the House that the opinion of imminent economists such as these men cannot be taken lightly. None of these people could be classified as obstructionists, or diehard conservatives opposed to change in progress. I suggest that these men know considerably more about the problem than most of us do here in the House, for they have devoted their lives to the field of economics, the study of problems such as we have before us here in this minimum wage bill, and their advice has been sought by and given to Presidents of this Nation such as former Presidents Eisenhower and Kennedy.

Now, I am well aware of the fact that this minimum wage bill is going to pass, but I would fervently hope that the House of Representatives today will consider some amendments which will lessen the impact of this legislation upon employment in this country, and perhaps improve the bill and help out both the worker whose economic lot we are seeking to improve by this bill, as well as his employer, who provides the worker with the job by investing and risking his capital and his management ability.

Now let us talk specifically about two broad areas of coverage in the bill, where we are enacting minimum wage law for the first time, in the field of agriculture, and in the field of the restaurant and motel and hotel industries.

I talked specifically to these, because these areas are so important to the economy of the State of Florida where I come from. The tourist industry is the No. 1 industry of the State, and the restaurant and hotel and motel people make up a large part of the employers in this tourist industry. The second and most important industry in Florida in terms of dollar production is the great agricultural industry. This proposed legislation will have an enormous impact upon these industries, not only in Florida but all over the Nation.

I would expect that the arguments pro or con on the legislation so far as Florida is concerned and these particular industries are concerned would be applicable to other parts of the Nation.

In the past many weeks, in fact during almost the entire time of this session of Congress, I have talked with personally and corresponded with many people in both agriculture and the restaurant and hotel and motel industries, listening to their arguments and trying to personally acquaint myself with their problems.

I could give you example after example, all within my personal knowledge, of cases where I firmly and truly believe that the enactment of this bill under its present form will have an extreme adverse effect upon both workers and employers.

Let us take the agricultural industry first. During the last few years, the agricultural industry in Florida has been beset by labor problems. There are two basic factors involved. One is that the agricultural employer cannot find enough labor to make and to harvest his crop. The second problem is that he finds with each passing year that the labor which he is able to get is becoming less productive. Employer and employee relationships are deteriorating constantly with each passing year.

There is not the time here on the House floor in this debate to go into the many reasons why this is so. To put it in broad perspective, the reasons may be directly laid at the door of the Federal Department of Labor here in Washington. There has been constant interference with employer-employee relationship in the agricultural industry in Florida. There has been demand after demand made upon our farmers in Florida by the Department of Labor. I think it can be truly said that there has been a general reluctance on the part of the Federal Department of Labor to come to grips with and understand the problems of farmers in Florida.

May I say this also, that I do not make the point here that all agriculture employers are paragons of virtue. I expect that they have their faults and shortcomings as do all other segments of our society, and that there needs to be correction and upgrading of the attitudes and the methods used by employers. However, it does not seem to me as though they can be wrong all the time, and yet this seems to be the attitude taken by the Department of Labor.

The important thing to note here is that the wages paid in agriculture in Florida are excellent, and far exceed the minimum wages established by this bill.

For example, I have in my hand here a letter on the letterhead of the U.S. Department of Labor written by and signed by Willard Wirtz, the Secretary of Labor, dated March 16, 1966, which says this of the wages paid by the Florida citrus industry this year:

Industry records show an average wage of \$1.97 an hour; our own audits of citrus payrolls show a slightly higher figure. The indications are that less than 10% of the workers at any one time made less than the old minimum of \$1.15.

Here we have an actual communication of the Secretary of Labor expressing satisfaction with the good job the Florida citrus industry was doing in paying wages.

Wages are also high in other fields of agriculture in Florida. The other big segment of the agricultural industry of

Florida is the truck-garden and vegetable growing field. Here wages have continually gone up in recent years and are today on the whole meeting, minimum standards set by the U.S. Department of Labor.

Now one might make the point, well, if the wages being paid in the agriculture field in Florida are higher than the minimum wages called for by this bill, what worry do the farmers have if they pass the legislation.

There are always a certain percentage of workers in the agricultural field that are marginal workers. These people for lack of ability, either in the intelligence that the good Lord gave them, or because they are physically handicapped, are unable to meet a minimum wage and produce the necessary amount of work to earn the minimum wage. There are other workers who just plain are not motivated to work. They are either lazy or they just do not care. These people are employable at rates less than the minimum wage, and it is far better that they be employed at gainful work than on relief.

But what is certainly going to happen, if this minimum wage bill passes in its present form, is that many of these workers are going to have to be laid off, for the farmer just cannot afford to carry them at the minimum wage proposed in the bill.

There is another factor here which is very important and that is that there are workers in the agricultural areas of Florida that only want to earn a certain amount of money, regardless of how much inducement in the way of wages is offered to them. I have statistics from payrolls from Florida agricultural employers, which prove conclusively that as wages go up, worker productivity goes down. The worker has a certain goal in mind, a dollar figure that he wants to earn, to provide himself with the necessities of life. When he earns that figure, he will not work any more. There have been instances where workers, excellent workers under piece rate pay in Florida, have earned sufficient in 1 day to satisfy their needs for the rest of the week, and they only work 1 day. There is a very considerable percentage of workers who work for approximately a half a week, 3 or 4 days, and then loaf for the rest of the time, or go on relief for the balance of the week.

If we bring up the minimum wage rates as far as these workers are concerned, then we are going to have a lot more of that.

There are two other points that I want to make in this argument. We have had very serious agricultural losses in Florida in recent years, because of the very bad labor situation. Again and again, our growers have suffered severe crop losses. I have here in my hand case after case, documented from the books of the particular farmers, which show enormous acreage and dollar loss, because of an inability to get adequate workers at harvest time.

There are also many instances, and I have again case after case well documented, that many employers have cut back their acreage and proposed to cut it back further in future crop years, in

order to hedge against further economic loss.

There is also concrete evidence that some of our agricultural activities are moving south of the border, down Latin America way, in order to hedge against the labor situation here in the United States.

It is entirely within the realm of possibility that, if we do not drastically improve the agricultural labor situation in this country, over the long pull we may lose a major portion of our fruit and vegetable industry in this country to Latin America.

Now there will be amendments offered here in the House to exempt agriculture entirely from the effects of this legislation. I would earnestly urge the House to support such an amendment.

It occurs to me that there is ample evidence, certainly in the agriculture industry in Florida, that agriculture is more than meeting the minimum wages set down in this bill, where there are agricultural workers who are willing to work and produce and to earn a decent wage. There is also ample evidence in our agriculture in Florida that there is a certain percentage of workers who are not able in one way or another to do sufficient work to earn a minimum wage. Now, these people are going to get hurt, and hurt badly, if this bill passes in its present form.

If the House does not see in its wisdom the way to exempt agriculture entirely, then I hope the House would support any amendments offered that would water-down the present coverage contemplated under this legislation.

Now, let us turn to another segment of new worker coverage under this bill and that is the restaurant and motel and hotel industries. As in the case of agriculture, here we have a very special-type service industry, which is not at all comparable to the average industry and factory worker condition.

The arguments have been aired here in the House at great length heretofore, and I do not intend to repeat them. There are many factors which differentiate these people from those in industry. Their work hours are different. Many of them receive substantial income from tips and, while I recognize that that feature of their income is going to be recognized to some extent in this legislation, it still points out a marked difference in their kind of employment from that of industry employment. There are a great many fringe benefits in connection with their employment. Some of them are furnished their meals, a very substantial part of their economic and benefit. Some of them are furnished uniforms, and hence save on work clothing. Some of them are furnished shelter, as in the case of the hotel business. Their situation is entirely different from that of the ordinary worker.

It is also a fact that many of the employers in these industries today are hard pressed to make a decent living on their capital investment and the amount of time and energy they devote to their business. In Florida, and that is true in many other parts of the country, this is a seasonal business. It is not an all-

year-round business where the employer can depend on week after week of substantially the same income. He has periods of good profit, but also periods of very severe loss.

I have talked to a good many people in these industries, and I have found that many a sound operation today is returning the owner no more than a minimum amount of profit on the amount of capital he has invested and the time he devotes to his business. If we boost the minimum wages of his employees, there is no question that he will have to drastically revise his operation in order to make it worth his while to continue in business. He will have two ways of doing this. He will have to pass the wage increase along to his customers in the form of higher food and meal prices in the case of the restaurant dealers, and higher motel room prices in the case of the hotels and motels, and also their allied restaurants, of course. This will contribute directly to the inflation danger we have in the country.

Or he will have to resort to another means of balancing his books and keeping some kind of a profit to himself, and that will be to reduce his work force and to eliminate the marginal workers that simply cannot row their oar in the particular boat at the minimum wages set out in this bill.

I expect that a combination of these two facts will be used. Again, I fully realize that the House will probably enact this legislation with the restaurant and hotel and motel coverage, despite any argument that I or anybody else might offer here. However, I do suggest to the House that it would be wise to take it a little easier on these people, and give them a little better break in adjusting themselves to the drastic economic effects of this act.

I am sure that even those in this House who wholeheartedly favor this bill in all of its aspects, certainly fervently desire that the bill will work, and want the bill to work in all of its aspects just as effectively as possible. I am sure also that the proponents of the bill have some misgivings about whether the bill will do all that it is designed to do. I am sure that they realize that the employers may well have some sound arguments, and that the bill may have disastrous economic effects upon some employers and also adverse economic effects upon some of the employees who are in the lower economic scale.

Why would it not be a much more sensible thing then, to go a little slow here and give a little better chance for these restaurant and motel and hotel people to work out the problems they are certainly going to have with this act.

My suggestion is this: The restaurant and motel and hotel people are newly covered under the act, just as the agricultural workers are. They are in a special category of employers-employees. Their situation is vastly different from the average industry worker. I think it would be eminently fair if these people were given the same advantages and coverage under the bill as the agricultural workers. Let's put it another way. These industries have traditionally been

exempted since the minimum wage law was first enacted in 1938, and there was an excellent reason why they were. These reasons still exist. Therefore, when we are taking the first step in minimum wage coverage here today as far as these industries are concerned, why should not they have the same minimum wage coverage as do the people in agriculture. So when the appropriate time comes, I intend to offer an amendment which would make their minimum wage coverage correspond exactly with the agricultural workers', \$1 an hour to begin with, \$1.15 the second year, and \$1.30 thereafter.

The Nation has been doing pretty well in the restaurant and the hotel and motel industries for many long years. It has been doing pretty well without any minimum wage coverage at all since we first got minimum wages in 1938. What is wrong with starting minimum wages off in this field in a way which is designed to give a little more time and a little more leeway here to see exactly how this minimum wage is going to work so far as these people are concerned.

Now, I am not asking that they be excluded. I am simply asking that we use a little commonsense here and get this thing started off in a manner that may perhaps have a better chance of working. There is not any question that we are going to revise this minimum wage law again sometime. We have enacted 7 minimum wage laws since 1938, and we will enact 7, 17, and 27 more over the long years ahead. There is plenty of time to examine how minimum wages are affecting the restaurant and the motel and hotel industries the next time minimum wage comes up for review.

I would urge the House to exercise a little commonsense here and support my amendment.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. GURNEY. Mr. Chairman, I ask unanimous consent to proceed for an additional 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. RACE. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mrs. MINK. Mr. Chairman, I rise in opposition to the amendment and move to strike the requisite number of words.

Mr. Chairman and Members of the House, I believe one of the really significant recommendations which the committee has brought before the House is an attempt to bring up the level of wages and the opportunity for a decent living to the agricultural workers of this country.

The amendment has been proposed to completely eliminate coverage for all farmworkers. I dare say there is no one in this Chamber today who would deny that the worker in America who suffers the lowest income in this country is indeed the farmworker.

If we are to make progress and to say that we believe in the eradication of poverty in this country, then we must surely look to the lowest rung of workers in this country, who are the farm laborers. We heard considerable testi-

mony and heard from all sides on this argument. It was the considered opinion of the committee that the recommendation which we have brought before this body is a fair one and takes into consideration some of the desperate problems our farmers are having throughout this country.

It think it is important to bear in mind the philosophy which is encompassed in our bill which is the same philosophy with which we approached legislation years ago in establishing an exemption for enterprise in the retail and service business. This is the same approach that we applied to our farmers. We said that a farm that does not employ 500 man-days in any calendar quarter or in excess thereof of labor would not be covered by the minimum wage provisions of our bill.

We further said not only the 500 man-days would be an exemption but for the purposes of counting 500 man-days there would be certain individuals who would not be counted in order to arrive at that figure, either. This included the hand harvesting piecework employees who commute daily from their residences and did not work more than 13 weeks.

When we put this provision into our bill providing for coverage by minimum wage of our farmers we exempted the vast majority of the farms across this country. As a matter of fact, the committee report indicates only 485,000 workers will in fact be covered. Of those 485,000 only 44 percent or 213,000 actually earn less than \$1 an hour. So that is the total coverage of the bill we are now considering before this Committee which the gentleman is offering to amend and remove entirely from the coverage of this act.

Mr. BELL. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the gentleman from California.

Mr. BELL. An increase in the minimum wage to \$1.25 would mean an increase per unit of not more than 1 cent per unit of product.

Mrs. MINK. That is correct. I am grateful for the gentleman's contribution. I think I have a small personal offering in this area. My own State of Hawaii covered all workers in every category with a minimum wage of \$1.25. Has this destroyed our economy which is basically agriculture? It has not. As a matter of fact, the current worker in agriculture today in sugar and pineapples is currently earning \$2.80 an hour. We still have a very competitive and a very viable economic situation in my State. I think it is very important that we appreciate the report that was prepared for the Congress by the Library of Congress pointing out the fact that not only do 4 States already cover agricultural workers, but with reference to the migratory worker that the Secretary of Labor last year, in April 1965, found for foreign contract workers the requirement in 28 States would be in excess of \$1 an hour. As a matter of fact, it is \$1.15 throughout the States of Arkansas, Florida, New Mexico, Texas, Virginia, and West Virginia. It is \$1.25 for Arizona, Indiana,

Maine, Michigan, and Wyoming. It is \$1.30 in Colorado, Massachusetts, New Hampshire, New Jersey, New York, Oregon, Rhode Island, Vermont, and Wisconsin. It is \$1.40 for a higher category. If this country and the farm industry of this country can support the foreign migrant workers at these minimum wages, then I think it is imperative that we give this same opportunity for a decent living to all of our American workers currently working on our farms in this country.

Mr. GLENN ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

(Mr. GLENN ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. MARTIN of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. GLENN ANDREWS. I yield to the gentleman from Nebraska.

Mr. MARTIN of Nebraska. I thank the gentleman from Alabama.

Mr. Chairman, I would like to call attention to a couple of statements made by the two gentlewomen who have spoken in the last few moments to the attention of the committee.

First of all, I call attention to the Farm Labor Statistical Reporting Service which is put out by the U.S. Department of Agriculture. It is dated April 11. It shows that the average farmworker in the Pacific area, which I believe includes the State of the gentlewoman from Hawaii, is \$1.49 an hour. This was issued on April 11.

In reply to the gentlewoman from Oregon [Mrs. GREEN], I should like to read the average farm wages reported in these statistics for New England.

The average farm wage is \$1.40.

For the Middle Atlantic States it is \$1.29. For the East-North Central States, it is \$1.28. For the West-North Central States it is \$1.25. For the South Atlantic it is \$0.98. For the East-South Central States it is \$0.83. For the West Central States it is \$0.98. For the Mountain States it is \$1.22, and for the Pacific States it is \$1.49.

Mr. Chairman, these statistics are published by the Department of Agriculture.

Now, Mr. Chairman, I would like to call to the attention of the committee one other misstatement that I believe was made a few moments ago by the gentleman from California when he referred to the fact that he thought there was an exemption for a farmer unless he had seven or less employees and that he did not come under the provisions of this bill. That is not true, Mr. Chairman, because the only reference in the bill to an exemption is 500 man-days or 500 working days per calendar quarter on the farm. You can have apples to pick or you can have sugar beets to weed and thin or whatever might be involved where seasonal workers are brought in, and if you have 25 employees on that farm, 20 days, you are utilizing your entire 500 man-days per quarter and then your farm is going to be under the coverage for the following year, even though you might have only one permanent employee.

Now, Mr. Chairman, I would like to

bring out another fact. There has been reference made here today to the effect that this is going to cover 485,000 farmworkers in the United States.

The language contained in the bill which was introduced by the gentleman from California, Mr. Roosevelt, and reported last September stated that it was going to cover 1.3 million farmworkers. There is a great difference in the coverage between the Roosevelt bill and the Dent bill.

Mr. Chairman, I have here a copy of the Farm Survey which was made in order to make this determination. This survey was taken in 1965 and requested information from the farmer in regard to the week of May 16 to May 22, 1964, which is not a peak week in employment in agriculture.

So, Mr. Chairman, those are the figures upon which this is based. The enumerators went around asking questions of the farmers. For instance, here is question No. 10:

About how much was the total cash wages paid to all farmworkers on this place during the 3-month period?

And then they have the four different quarters of the year listed.

Then there is a little note to the enumerator to this effect: "If the total of items 10(a), 10(b), 10(c), and 10(d) and so forth, does not agree with the total in item 9, review the answers in item 9 and 10 so you come out in balance."

It says, "You will note about how many employees or about how much in cash wages were paid."

Then, Mr. Chairman, they took the total cash wages—this was not taken off his income tax report, but just from memory—they took what the Department figures is the average farm wage in the particular State, divided the average wage by the total amount of money that was reported as spent for wages, and said, "Well, he has so many employees."

They only took the survey on a very small number of farms. In the entire country out of 3.4 million, only a very few were taken in the various areas of the country.

Now I ask you. Is that an accurate way to make a survey—and come in with figures that 485,000 farmers are going to be covered?

Mr. ABBITT. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, I am supporting Congressman DAVE MARTIN's amendment to H.R. 13712—amendments to Fair Labor Standards Act. His is a most important amendment.

I represent one of the great sections of Virginia where agriculture is one of the major source of income and employment.

The aspect of the proposed coverage of farmworkers which concerns me most is the effect upon small farmers.

My district of southern Virginia is one in which there are large numbers of small farmers—growing tobacco and peanuts, fruits, vegetables, and producers of dairy products.

Although they are small farmers most of those producing the commodities I

have visited have a sizable farm labor bill.

The proposed coverage of farmworkers by minimum wage legislation would provide a major incentive toward combining small farms into larger units so that they may accomplish the reduction in labor costs that are made possible by the adaptation of mechanization and other labor saving equipment and procedures.

Small farms cannot ordinarily do this. Mechanization is an expensive process. Small farmers do not have the necessary volume of production to spread the costs of machine operation on an economic basis. Nor can small farmers usually acquire the necessary capital to convert to machine operation.

This reorganization of agricultural production is not, of course, all bad. It is going ahead gradually in many areas. In most cases the adjustment can be made gradually. As elderly people retire or pass on, it is common for their land to be acquired by a neighbor. But to artificially stimulate this process means that many small farmers will be forced out of production at an accelerated pace. The adjustment will be accompanied by hardship that would otherwise be unnecessary.

The hardship will be felt not only by many small farmers, but by much of the local people whom they employ. It will be reflected on the small community and on many small businesses as the number of people in rural areas declines.

It is no answer to say that this will happen anyhow. It makes a lot of difference to a lot of people if this change is permitted to occur gradually by a process of individual adjustment, or whether it is forced on a crash basis as the result of Federal minimum wage laws.

I just do not know what is going to happen to the people who are disemployed as a result of this and other features of the bill under consideration.

But I think it is clear that the population of my district will be reduced, and that many of the people in my area will be forced to move to other areas if this amendment is not accepted.

I urge the House to accept this amendment.

Mr. DENT. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman and Members, if you do this, I would recommend that you defeat the bill.

If you do this, I recommend that you defeat the bill. If in this year of our Lord, this House of Representatives wants to reclassify the American worker who has to earn his living on a farm, back into those days of the dark dungeons of coal mining when a mine worker could not hold his head up in the community because no matter what he did there was no opportunity for him to provide for his family or even to provide for the bare necessities of life.

Any of you who have ever lived near a farm or who have worked on a farm, if you can vote for this, then you can honestly say to yourselves, This that I do today, I do in bad conscience.

Mr. Chairman, I hold a letter here in my hand, something that I am prouder of than anything I have ever received in all my 34 years as a legislator.

This letter comes from the Pennsylvania Council of Churches. I want to read it to the membership:

THE PENNSYLVANIA COUNCIL
OF CHURCHES,
Harrisburg, Pa., April 21, 1966.

The Honorable JOHN H. DENT,
Linden Drive,
Jeannette, Pa.

DEAR CONGRESSMAN DENT: I am addressing you, on behalf of the Legislative Committee of the Pennsylvania Council of Churches, regarding H.R. 13712 (The Dent Bill on Minimum Wage).

We feel this bill is an important step toward providing economic dignity for a larger segment of the Nation's workers and are pleased, especially, to note that 465,000 farm workers are to be included in H.R. 13712. We hope you will support this bill in its present form.

The Legislative Committee of the Pennsylvania Council of Churches consists of delegates from the 37 conferences, dioceses, elderships and synods of 16 major Protestant denominations within the Commonwealth of Pennsylvania. The church members within these groups exceed 3,000,000. We feel we speak for them in supporting H.R. 13712.

Sincerely yours,

RODERICK J. WAGNER.

P.S.—Thank you for what you've done thus far. R.J.W.

Mr. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman.

Mr. BOGGS. Will the gentleman from Pennsylvania explain to the House the great amount of time and effort that he has spent to work out this provision. This provision is a compromise and I know that the gentleman from Pennsylvania [Mr. DENT] has worked very hard on this and I think the Congress would be interested if the gentleman will tell the Members what the subcommittee did.

Mr. DENT. In a sense the bill covers approximately 1.6 percent of all the farms in the United States of America. But to prove that there has been a move toward the corporate entity in farming, while we only cover 1.6 percent of the farms, we do cover 39 percent of all the hired hands on the farms. Can any person here honestly say that the large farms in this Nation operating on a more than 500 man-day quarter and which have to have a minimum income of \$500,000 and have to employ seven men or more—can any person here honestly say that that kind of operation is a small farm operation?

If the plea of my friend, the gentleman from Nebraska, is that we are injuring the small farm, then how can we be exempting 98.4 percent of all the farms in the United States? In fact, what I am ashamed of is the fact that I have not had the courage to do the job that has to be done so that the people who work on the farms of America can make a decent living and that because of political expediency, we have to give just this token coverage to these individuals.

Yet to find men on this floor—and I hope that no women can be counted in this endeavor, because I think their hearts are gentler when it comes to economic measurement against the needs of the people—to find men in this room, whether we voted for the measure we know that no one is denying his \$30,000 a year, saying that an individual has to

work for 30 cents an hour on the farms of the United States is beyond me.

Mr. STRATTON. Mr. Chairman, I rise in support of the amendment.

I find it interesting that those particularly who represent urban areas in this body are always experts when it comes to the farm. I represent one of the largest, if not the largest, farm area in New York State, and one of the largest dairy areas in the country. And I rise in support of this amendment, in spite of the fact that I think when it comes to voting to deal with the problem of poverty, when it comes to supporting the causes of working men and women in this country, I can put my record in this body during the last 8 years I have had the honor of serving in this body along with that of any Member who may be opposed to this amendment.

But I think that in representing a farm district I have a little better idea of what our farmers are facing than some of those who are talking so glibly about covering farms and farm employees in this legislation.

In the first place, the farmer himself is not covered under any minimum wage legislation. Farmers do not work on a 9-to-5 schedule. They work even longer hours than even most Members of Congress work. I think someone figured up the other day that when you take into account all the hours that a farmer works and then take into account the dollar amount of his investment, many are lucky to end up with something like 42 or 45 cents per hour they put in on their own farms.

Second, there seems to be an impression that the farmers of this country have been getting rich in a hurry. And there seems to have been an impression created lately that the farmers of the country are also mostly responsible for the inflation we have been threatened with in recent months. Why even the Secretary of Agriculture cheered the other day when the return to the farmer on certain products went down in the marketplace. And the Secretary of Defense, no less, a man whom I have frequently supported in this body, dealt the dairy farmers of my district a very heavy blow when he issued an order denying butter in the daily ration of members of the Army and the Air Force. The fact is that our farmers are not getting rich. The fact is they have been very badly hurt by the past 4 years of drought. Many of them have already been forced out of business. I certainly do not want to do anything that will put even more of them out of business.

And it is also a fact that farmers in New York State and other parts of the country are not paying starvation wages. A fellow who works on a farm can also go into Syracuse, Rochester or Schenectady today and get an industrial job. Our farmers still have to compete for labor with that kind of thing.

Yet, as the gentleman from Pennsylvania plainly acknowledged just a moment ago, this bill is just a foot in the door. He apologized that it did not go nearly far enough in covering agricultural employees. Maybe this bill does not affect most farmers in New York State. But look what has already hap-

pened to the million-dollar retail store exemption which was written into law a few years ago. We will be escalating the coverage of our farmers very soon if we keep them in this bill. And if we bring farms into this bill, look at the burden of regulation and paperwork our farmers will be saddled with. They will have to determine how many man-days have been worked. They will have to determine how many people commute, and how many miles to work, how many youngsters under 21 or over 21 are working. Yes, our farmers, if this amendment is defeated, are going to be even more heavily saddled with Government redtape and increased costs, and more of them will go out of business than have gone out of business already.

I think we ought to stick with the philosophy we have already been following, and recognize the special and unique circumstances of the farmer. Let us not make agriculture bear an unfair share of the burden of the economic problems we face today.

Mr. Chairman, I urge the adoption of the amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. DENT] is recognized.

Mr. DENT. Mr. Chairman, I only want to be recognized for a special unanimous-consent request.

I would like to know if we can arrive at some kind of decision on a limitation of time on this particular amendment and any amendment thereto.

I see so many Members standing that I will not make my request.

Mr. WHITTEN. Mr. Chairman, I rise in support of the amendment, and move to strike the requisite number of words.

Mr. Chairman, no one—and certainly not I—would question the good intentions of the proponents of this section of the bill. Unfortunately, as the saying goes, one cannot get blood out of a turnip. The record shows that American agriculture is losing about 800,000 farmers a year, who are getting out of agriculture because of the pressures they now face in high costs and low returns. I hope some of the Members have with them the volumes of hearings by the Agriculture Appropriations Subcommittee and will look at page 655 of volume 3 of our hearings. We had a study made just to see what the results of the labor policies of this Government have been and what the effects are on American production, and upon the consumer.

We have had a little experience in the fixing of rates beyond the ability of the producer to pay because under the last law having to do with farm labor coming into this country, I believe, the Secretary of Labor had the right to set wages. At that time he set rates which caused many small producers to pay more than the traffic would bear. Today, Heinz 57, and Campbell's, and many other food processors are now operating in Mexico, taking advantage of cheap Mexican labor. The production coming into the United States has increased in some cases more than twentyfold in the last 10 years.

Most of this production comes in with a Texas name on it, or the name of some

other border State, but it is produced in Mexico. Instead of giving more work at higher pay to the American farm workers, as the proponents envisage, the money is going to the adjoining areas, to other countries, and our people are getting out of the farm business, though some are making it by substituting machinery for labor.

Here is the problem: You may say if we get cheaper tomatoes, cheaper asparagus, and cheaper onions, and other perishable commodities, particularly those from Mexico, the American consumer will profit thereby. This is not usually true. There is a flooded market for a period, and there is an absence of any supply at other times. In the year before last, for a period of time, tomatoes could not be bought in Washington, D.C., in any of the large chain stores. Since our system calls for selling at the price the traffic will bear, frequently low foreign labor costs are not passed on to the consumer.

Throughout this bill there is evidence of good intention on the part of my friend from Pennsylvania and others to see that our people have a fair income. That is a worthy objective; but, my friends, it is frequently not possible to get a fair income out of a small business, and no way when such business does not make it. All you do is put the small operator out of business, or larger business operating on a small margin, can be closed down as a result of many of the provisions of this bill.

Your good intentions are not enough. Since pressure for this bill comes from areas that pay more than the minimum wage, such fact indicates that the real desire of many is to retard or stop the industrial development of my section and other similar sections of the United States. Certainly, we would like to see all persons make good salaries of wages. It is my opinion that further development, with more industries, will come nearer bringing that condition about in my section than will efforts to force, by law, payments based upon a return that the business itself does not have. Such a law will not bring that return to the worker. It can put the operator out of business; as our report shows, the business frequently merely goes across the border. The consumer pays more in the long run because supply is intermittent and unreliable.

I would like to point out some of the facts concerning the American agricultural producer, as set forth in our recent committee report:

AGRICULTURAL APPROPRIATIONS 1967

FARMING NO LONGER ATTRACTIVE

The number of agricultural producers providing food and fiber for our rapidly expanding population continues to decline and is now down to about 7 percent of the people in this country. Trained and experienced farm labor is in increasingly short supply.

Long hours of hard work, more rigorous living conditions, hazards of weather, threats from insects and diseases, increasing financial risks, and decreasing financial returns, are causing farming to become less and less attractive to each succeeding generation of young people. Fewer and fewer farm children are returning to farming as a career. More and more of their parents are moving

to "greener pastures" in town as the monetary return for their labor, investment, and managerial skills decreases on the farm.

As a business venture, farming is becoming less attractive as the necessary farm investment increases and the net return on the investment decreases. Figures from the Department of Agriculture show that average farm investment has increased nearly tenfold in the past 25 years, from \$6,158 in 1940 to \$59,519 in 1965. They also indicate that the average return on farm investment, including the value of the farmer's own labor and management skills, has dropped about 40 percent during this period, from 14.2 percent in 1940 to 8.6 percent in 1965.

It is entirely understandable, therefore, why fewer and fewer people are remaining on the Nation's farms, and why some 7 percent of our population on the farms is now feeding the 93 percent of urban dwellers in addition to themselves. This undesirable imbalance can be expected to be further aggravated as movement away from agriculture continues.

According to Department figures, an average of nearly 800,000 people have left the farms in each of the last 5 years. The farm population has decreased to about 12.5 million today, compared to double that number in 1950. The 1959 census, the latest official data available, shows that some 17 percent of all farmers in the United States were 65 or older. An additional 22 percent were 55 to 64 years of age. By 1970, it is estimated that nearly half of the farmers will be 55 years of age or over.

The trend away from the farm is also evidenced by the steadily decreasing amount of land used for agricultural production. The total land planted to crops in 1950 was 353 million acres as compared to 307 million acres in 1965, a reduction of 13 percent.

Mr. HAGEN of California. Mr. Chairman, I rise in opposition to the amendment, and move to strike the requisite number of words.

Mr. Chairman and Members of the Committee, I might say I represent the most productive agricultural district in the United States. I rise in opposition to this amendment.

I want to talk to those who represent farm areas. The situation is building up in the farm areas of the country, where there needs to be some device to provide a fair wage for a fair hour's work for a farmworker. I say to the farm area Representatives that the alternatives are worse than the provision contained in this bill, because unless something is done to upgrade farm wages throughout the Nation, farmers will be confronted with increased union activity to secure the same result.

One way to avoid that, in my judgment—because the importation of supplemental labor from abroad is over, in my judgment—is to pay a decent wage and to attract people into the farm labor establishment. Believe me, that needs to be done. This is one way to do it. In saying this, I say, in the main, farm wages in California are fair and reasonable.

I believe the figures established by this bill for farm labor are fair and reasonable, and any farmer worthy of the name can afford to pay \$1.40 an hour for a fair hour's work—certainly at least as much as is provided in this bill—most farmers can pay that much, and with the exception of a few chiselers want to pay that amount. The minimum is aimed at the potentially unfair em-

players and not the majority of fair farmers.

I shall offer an amendment at a later time in this debate to provide that this minimum may be calculated on an average crew return on a piece-rate basis which is best suited for applying minimum wages to farm employment.

Mr. OLSON of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. HAGEN of California. I yield to the gentleman from Minnesota.

Mr. OLSON of Minnesota. I join in opposition to the amendment. I, too, represent a farm district. I wish to say to the Members of the House that the farmers are not quite as naive as some critics may think they are. The farmers in my district are worried about the figures showing the growth of corporate agriculture brought out by the gentleman from Pennsylvania [Mr. DENT], and the gentlewoman from Hawaii [Mrs. MINK]. Corporate agriculture is a threat to the family farmer, and my family farmers are thankful something is being done about it. I believe the exemptions offered in this bill are more than adequate for family farmers. The sod man-days are equal to almost two full-time hired men for a full year. Farmers whose operations are bigger than this are going to offer unfair competition to family farmers if they are not required to pay a fair, minimum wage.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. HAGEN of California. I yield to the gentleman from California.

Mr. BURTON of California. I should like to commend my distinguished colleague from California. I am sure he is aware of the fact that in California, which has the highest income from agriculture of any of the 50 States, there are only 11,000 farmers who will be affected by the provisions of this bill. I cite as the source of that statement the department of employment third-quarter figures. That is the highest quarter of agricultural employment. This is dated May 18, 1966, and it describes that some 11,000 California farmers are employing, I might add, 262,000 of the some 400,000-plus due to be covered in the bill before us; and those 11,000 farmers would be subject to the provisions of this act.

I knew my colleague was aware of these facts. This spells out the moderate nature of the committee proposal with reference to extending farm labor coverage to the farm workers of this country.

Mr. GUBSER. Mr. Chairman, will the gentleman yield?

Mr. HAGEN of California. I yield to the gentleman from California.

Mr. GUBSER. As a representative of a major farm producing area and as a farmer I should like to join with the gentleman in his opposition to this amendment. I believe this bill will be in the long range best interests of farmers and agricultural employees.

At a later time I hope to offer an amendment which will extend this even further than the pending bill.

Mr. HAGEN of California. I thank the gentleman.

Mr. BELL. Mr. Chairman, will the gentleman yield?

Mr. HAGEN of California. I yield to the gentleman from California.

Mr. BELL. California gets competition from Mexico, as stated by the gentleman from Mississippi. I should like to point out that California consistently has paid higher wages and has had higher employment in agriculture, despite that competition.

Mr. HAGEN of California. Mr. Chairman, I wish to say that part of the problem of the farmers has been getting good quality labor. The only way to get good quality labor is to pay fair and decent wages. That is the way to get production. That is what we have discovered in California.

For a while we relied on the foreign import program. This is a thing of the past, in my judgment, in any part of the country.

Unless something is done to improve the attractiveness of the farm labor situation, I submit to those who represent farm areas unless we correct existent low farm wages situation, the farmer either will not get labor or he will get it on terms he cannot accept at all. A legislated minimum wage is the least dangerous way to do it so far as the income and the welfare of the farmer is concerned. I believe the terms proposed in this bill are acceptable.

Mr. AYRES. Mr. Chairman, I move to strike the requisite number of words.

Mr. GURNEY. Mr. Chairman, will the gentleman yield?

Mr. AYRES. I yield to the gentleman from Florida.

Mr. GURNEY. It seems to me that we have missed a certain fundamental point here. I do not believe anybody in the House of Representatives is opposed to paying a farm laborer a decent wage. I believe the points which the gentleman from California just made in the well indeed are excellent.

He has made the point that farmers must wake up to the economic facts of life and make living conditions for their employees good. He is eminently correct about that. As a matter of fact, our farmers in Florida follow that precise principle. We have been upgrading our farm labor, its working conditions, and its wages. As I pointed out a short time ago here, the average wage in our citrus industry in Florida is \$1.97 an hour. But at the same time it seems to me we have two basic problems here. This bill is not going to have any effect on the average wage that a good farmworker is going to make. I think a lot of people in this House are under the impression it is. It does not have anything to do with that. What it is going to do is set a minimum wage. It will affect the bottom of the economic scale. It is going to pick up, if it is passed, the small percent of workers that are being paid a lesser amount than the minimum wage in the bill. But what is this going to do? There is not any question of the fact that in Florida it is going to force some people in this marginal area out of work. I would like to point out to the House of Representatives that I do not think this is an argument purely and simply between city people and farm people or between liberals and conservatives. I

read an interesting article in Newsweek magazine a short time ago, which is not noted for being a conservative magazine, written by Henry Hazlitt, on the whole problem of the minimum wage. He quotes in the article in the issue of April 11, 1966, Dr. Burns, who was formerly the chief economic adviser for President Eisenhower; Dr. Tobin, who was the economic adviser for President Kennedy; and Dr. Haberler, of Harvard, a noted economics professor at Harvard University. He says they have all made the point in recent days that minimum wage laws defeat their purposes. Let me read what one of them says here:

Professor Burns says:

The broad result of the substantial increase of the minimum wage in recent years has therefore been a curtailment of job opportunities for the less skilled workers.

As Professor Tobin has put it:

People who lack the capacity to earn a decent living need to be helped, but they will not be helped by minimum-wage laws, trade-union wage pressures, or other devices which seek to compel employers to pay them more than their work is worth. The more likely outcome of such regulations is that the intended beneficiaries are not employed at all.

Professor Haberler concludes that:

Raising the minimum wage would thus be an irresponsible antisocial measure, reducing job opportunities of the poor, promoting inflation and retarding growth.

That is what we are talking about. When we enact this minimum wage law insofar as it applies to agricultural workers we are not going to increase the wages of the workers that work well on the farm today. These wages are generally fair and good. The gentleman from Nebraska read some statistics right out of the Department of Labor that it was so. What we are going to do is to deny jobs to those people that need them desperately now. That is going to be the ultimate effect of this bill. I hope the House will support the amendment.

Mr. MARTIN of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. AYRES. I yield to the gentleman from Nebraska.

Mr. MARTIN of Nebraska. Thank you. I would like to call your attention to a letter I received from the Northwest Horticultural Council that represents fruitgrowers and shippers in Oregon and Washington in regard to my minority views in which I stated I would propose an amendment to strike the entire agricultural section. Let me quote very quickly from this letter:

I have read with interest the individual views expressed by you in the report to accompany H.R. 13712, the Fair Labor Standards amendments of 1966. This Council which represents the fruit growers and shippers of Washington and Oregon is in complete agreement with the views expressed by you.

One other point I would like to make, because this has not been brought up. Here is H.R. 8260, the bill introduced by Mr. Roosevelt, former chairman of this subcommittee, and introduced a year ago after the President's message was received in respect to labor. There was no agricultural coverage included in the ad-

ministration bill nor is there any reference to it in the President's message to the Congress.

Mr. WILLIAM D. FORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. CALLAN. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentleman from Nebraska.

Mr. CALLAN. Mr. Chairman, from time to time when legislation comes up that will ultimately affect our State and our people, oftentimes I confer with the University of Nebraska in an effort to determine what the thinking of the representatives of the university might be. On this particular minimum wage bill I asked the agricultural economics department to give me an opinion as to what the minimum wage for agriculture would do. I would like to quote some of the things that they said:

1. Only by direct action of Government can this large group of unorganized laborers acquire any kind of bargaining power.

2. This group of people spend virtually all of their income for consumer goods and services, which action must eventually stimulate the economy and increase employment generally.

3. The argument that high wages induce mechanization fails to recognize the fact that the strengthening force toward mechanization is the unavailability of qualified labor, not its cost.

I feel, Mr. Chairman, that item No. 4 is of particular significance:

4. Family farms who by definition provide at least half of the laborers for the operation of their farms, can in the long run receive labor incomes no higher than the wage paid on the large non-family farms. This assumes that other costs and returned relationships are comparable.

5. The inclusion of only those farms having seven or more fulltime employees (which constitutes only about 2 percent of the farms and receive 40 percent of the hired farm laborers) still leaves a large number of farms larger than family-sized farms still not affected.

In summary, it is our conclusion that the proposed legislation which would increase the level of minimum wages and broaden the coverage of minimum wage laws would be beneficial to the family-sized farms in the United States and the economy in general.

Mr. Chairman, with this point I cannot join my colleague, the gentleman from Nebraska [Mr. MARTIN] on this amendment, and I urge its rejection.

Mr. RESNICK. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentleman from New York.

Mr. RESNICK. Mr. Chairman, I would like to point out to all of the Members from the Northeast and from the city what this legislation means to them.

For one thing, Mr. Chairman, it means that the farmers of the Northeast can compete fairly with the farmers from the rest of the country.

Now, Mr. Chairman, we have poultry farmers in our part of the country. Our farmers pay anywhere from \$1.25 to \$1.75 an hour for help.

I ask you how can they compete with the poultry farmers in Mississippi who pay \$3 a day for a 10-hour day?

Also, Mr. Chairman, I would like to point out to the Members who come from the city, how can your factories sell anything to the man who is making \$1 an hour?

I say, Mr. Chairman, if we do not pass this legislation, we will see a shortage of farm labor and it is going to be reflected in higher food prices. Already we have a shortage of dairy products and, unless something is done very quickly to increase production, we will have a black market in butter and milk.

This is just a tiny step in the right direction. We in the Northeast are already paying far more than the minimum wages contemplated under this legislation.

I would like to point out to the gentleman from Mississippi, when he speaks of people going down to Mexico and processing, the fact that cotton is being grown in the State of Mississippi under Federal subsidy. And he does not have to compete with Mexican cotton.

Mr. Chairman, in support of my point of view, I include the following telegram:

WOODBIDGE, N.Y.

Hon. JOSEPH Y. RESNICK,
House of Representatives,
Washington, D.C.:

Northeastern agriculture has continued to be at a disadvantage competitively with agricultural producers in other parts of our country due to the discrepancy in wage rates for agricultural workers here and in the areas referred to above. We are therefore in favor of Federal minimum wages for agriculture and urge the full force and prestige of your office in support of such legislation.

Intercounty Farmers Cooperative Association, Inc.

ABE JAFFE, President.

ALBERT COHEN, General Manager.

Mr. FUQUA. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, if I may have the attention of the chairman of the subcommittee, first of all, I want to thank him for his very kind and sympathetic understanding of the particular situation we have in Florida.

I wonder, Mr. Chairman, will this bill in any way change the exemptions contained in section 13(a)(14) of the act for employees employed in growing and harvesting of shade grown tobacco.

Mr. DENT. I will state to the gentleman as I told him before, I contacted the Department of Labor and the Director of the Bureau, and he informs me that the growing and harvesting of shade grown tobacco on through to the shed processing is exempt under special exemption all the way through to the stemming process and will not be covered by this legislation.

Mr. FUQUA. Then it is correct to say that these workers will remain exempt while growing and harvesting as well as processing this product up to the stemming process.

Mr. DENT. That is exactly right.

Mr. FUQUA. I thank the gentleman from Pennsylvania very much.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman.

Mr. DENT. Mr. Chairman, I just want to announce to the House that we have made a calculation of the grand effort made by the gentleman from Illinois to have so many people—and he uncovered from the act 1,600,000 workers by the amendment offered by him.

I hear some Member applauding and I just wonder if that gentleman would like to reduce his salary to \$1 an hour.

As I was saying, Mr. Chairman, this amendment by the gentleman from Illinois has uncovered from the act 1,600,000 workers, and if you do this to agriculture, you will uncover 2 million workers altogether.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. FISHER. Mr. Chairman, I rise in support of the pending amendment, and also for the purpose of addressing an inquiry to the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. DENT].

Mr. Chairman, I would like to get some clarification here for purposes of the legislative history with respect to the business of sheep shearing.

Sheep shearers are paid on a per head basis for the sheep that are shorn.

Mr. DENT. I can only answer the gentleman in this way.

Mr. FISHER. I have not finished my question.

Mr. DENT. You say you are for the amendment.

Mr. FISHER. What amendment?

Mr. DENT. The amendment that is now before us.

Mr. FISHER. Oh, yes, indeed.

Mr. DENT. You are for it?

Mr. FISHER. Yes.

Mr. DENT. Then there is no sense in me answering the question. If you vote for the amendment, then your question will be answered automatically.

Mr. FISHER. Does the gentleman mind me asking him a question?

Mr. DENT. Not at all—go ahead. But I do mind answering the question if it does not do us any good. I like to discuss matters when matters are being discussed in an effort to help. So even if it helps you, you are going to take it out of the bill so what is the value?

Mr. FISHER. Does the gentleman mean to say that he thinks throwing light and clarification on something in the bill will not help?

Mr. DENT. I am happy to throw light and clarification for those who want to see.

Mr. FISHER. Well, what I am seeking is some light on this and will the gentleman help me to provide this light?

Mr. DENT. Yes, I will and if we enlighten the gentleman, will you then reconsider your position as previously expressed to vote against the bill no matter what is in it?

Mr. FISHER. I will certainly listen to the urgings of the gentleman who is very persuasive.

Will the gentleman permit me to finish my question?

Mr. DENT. Of course.

Mr. FISHER. Then if I may start from the beginning, Mr. Chairman.

My purpose in rising was to ask for a clarification, in good faith, of the appli-

cation of this bill to a particular category of employment. But I was interrupted before I could complete my question. Now before my time expires, I will start from the beginning.

Sheep shearers are paid on a per head basis for the sheep that are shorn. That is a general practice. The customary procedure is for a rancher or a farmer to contract for a crew of shearers to come in and work on the farm or on the ranch for anywhere from 1 day to around 10 days, depending on the size of the flock, and the pay is on a basis of a piece rate rather than on an hourly basis.

The question I have is as follows: Would these shearers be included in the computation of man-days which would determine whether a farm or a ranch would come under the provisions of this bill?

Mr. DENT. To the best of my knowledge, I would say they would be included. That is my opinion.

Mr. FISHER. That was the purpose of my inquiry. I think it is a fair one. Does not the gentleman agree with me?

Mr. DENT. Yes, sir.

Mr. FISHER. I yield to the gentleman from North Carolina.

(Mr. JONES of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. JONES of North Carolina. Mr. Chairman, I rise to support the amendment offered by the gentleman from Nebraska. First, let me emphasize that in 1957, as a member of the North Carolina General Assembly, I was one of two Representatives from the agricultural section of our State that voted for the first North Carolina minimum wage law. In 1965, as a member of the North Carolina State Senate, I again voted for an increase in the State minimum wage. I did this from a conviction which I still retain, and this is simply that the matter of minimum wage should be left to the individual States, for it is an apparent truth that the farm economy of one State is not consistent with that of another State. I am not convinced that this can be corrected by congressional action. It must come from the local level, through an improved economy and competition in the labor market.

I have some interesting figures which have been supplied me by the office of the North Carolina Farm Bureau. These figures, I am informed, were developed by Mr. Lee Hammond, a marketing economist with the North Carolina State University, and Mr. C. R. Pugh, farm marketing specialist at the same institution. These figures are based on 1964 unit costs, and with the assumption that the farm minimum wage will ultimately reach \$1.25 per hour. This is what this wage increase would do. It would increase the cost of the product of corn 5½ cents per bushel; cotton 1.3 cents per pound; soybeans 10.2 cents per bushel; the bright leaf tobacco, which is the main agricultural product of the district I represent, based on a 2,000-pound yield per acre, the ultimate cost under the

terms of this bill would be in excess of \$160 per acre. When we speak of a 2,000-pound yield, we are talking in terms of some \$1,100 gross revenue. Already it is estimated that the present labor cost, plus the other cost factors, amount to some \$800. If we add another \$160, or an overall 42-percent increase in labor cost, we are then forcing the farmer either to mechanize or sell out. In effect, we would be defeating the very purpose for which the sponsors of this bill desire. For if we go to complete mechanization, we would be doing nothing more than adding to the unemployment and welfare rolls.

In recent months, the farm population has declined from 8 percent to 6 percent. I hope that this House will do nothing to increase this exodus of the farmers of this Nation. I firmly believe that every employer should pay as much in wages as he possibly can, but I do not feel that we should, through legislation, force any segment of our economy to pay more than is economically sound.

Finally, if the farmers of this Nation could control their selling prices as can industry, this would be another matter. Unfortunately, generally speaking, he is at the mercy of the purchaser. You were told yesterday on the floor of this House that 18 crabmeat packing plants closed in North Carolina as a result of the most recent minimum wage, which, may I remind you, involved 1,800 employees. This is what concerns me regarding the agricultural coverage.

Therefore, I intend to support the amendment sent forward by the gentleman from Nebraska.

Mr. FISHER. Mr. Chairman, I yield to the gentleman from Arkansas.

(Mr. GATHINGS asked and was given permission to revise and extend his remarks.)

Mr. GATHINGS. Mr. Chairman, the minimum wage proposal to cover the American farmer for the first time arbitrarily would set agricultural employees' rates at not less than \$1 an hour beginning February 1, 1967, not less than \$1.15 an hour starting February 1, 1968, and \$1.30 an hour minimum beginning February 1, 1969. It makes no allowance for the productivity of the particular worker. It says nothing about his skill or whether or not he could perform the particular assignment acceptably. There is nothing said with reference to the ability of the farmer to pay such a rate as set out in the bill under consideration.

There has been a decline of 14 percent in prices of farm commodities between 1952 and 1965. For specific commodities the change was as follows:

	1952	1965
Food grains-----	118	77
Feed grains-----	150	106
Cotton-----	119	94
Tobacco-----	89	105
Oil bearing crops-----	129	116
Livestock and products-----	119	101
Meat animals-----	115	104
Dairy products-----	118	101
Poultry & eggs-----	130	92

Price comparisons for selected commodities

	1952	1965
Wheat (bushels)-----	2.12	1.74
Corn (bushels)-----	1.64	1.16
Soybeans (bushels)-----	2.82	2.62
Manufacturing grade milk (cwt.)-----	4.06	3.37
Commercial vegetables (average of many vegetables)-----	2.71	2.60
Cotton (cents per pound)-----	36.56	28.99
Rice (cwt.)-----	5.53	4.99
Oranges (per box)-----	1.59	2.80

(Source of above information: Agricultural Prices, Statistical Reporting Services, U.S. Department of Agriculture.)

What has been happening to wage rates? Average gross hourly earnings in agriculture in 1952 were 66 cents, in 1965 it was 95 cents, or an increase of 43.9 percent.

Overall farm costs show that the 1957-59 parity index went from 98 in 1952 to 110 in 1965, which is an increase of 12.3 percent.

	1952	1965
Feed-----	126	104
Motor vehicles-----	87	113
Farm machinery-----	86	119
Fertilizer-----	102	100
Interest-----	59	204
Taxes-----	71	155
Wage rates-----	87	125

The ability of the farmer to pay the added wage rate is a most significant consideration. If he cannot pay and continue to operate his farm at a profit he will have to resort to other means of operations. He will have to change his system. That means additional mechanism instead of the use of manpower to do the particular job. If the farmer could increase the prices of the things he sells to make up the added difference which the legislation would call upon him to pay, then the farmer could not object to the increase set forth in the bill. Such a situation does not exist. The added cost to the farmer has no bearing whatever on the imposition of the new wage rates. The bill would be most harmful to all farm operators, especially small farmers.

Mr. FISHER. Mr. Chairman, I shall be constrained to support the pending amendment. The gentleman from Pennsylvania [Mr. DENT] has just informed us that for the purpose of computing man-hours worked on a farm or ranch in a previous year, to determine whether coverage applies, in his opinion that computation must include contract workers—those who work for a contractor with whom the affected farmer or rancher deals.

Mr. Chairman, most of those who have spoken here today against exempting agricultural workers are from the cities and regardless of their good intentions they simply are not qualified to speak from a background of knowledge and understanding of what the real problems are. The simple fact is that agricultural work does not lend itself to coverage by the wage and hour law. Farm and ranch workers do not punch clocks. Some days they work all day, and often when it rains or for some other reason

they work only half a day, or perhaps 2 or 3 hours. Then, there will be days when they do not work at all, or they may work for 12 or 15 hours.

Moreover, it is next to impossible to figure with any degree of accuracy the value of housing, electricity, fuel, garden space, milk cows, and other fringe benefits, in computing a wage rate by the hour. And it is also next to impossible for the average farmer or ranchman to keep the books that will be required by the Labor Department. That employer will be involved in all sorts of harassments by the Wage and Hour agents, who will be around to represent disgruntled former employees who claim they worked 9 hours instead of 8 on a particular day, or 10 hours, and claiming triple damages from that employer.

Anyone who knows what he is talking about knows that it is utterly impossible to determine whether a sheepherder is on the payroll at midnight when he is awakened and goes out to chase away a predatory animal that is attacking the flock. And the same is true of most of the regularly employed farm and ranch workers. The very nature of their work requires them to be always ready for emergencies during the dark hours of the night. Will the wage and hour people hold those employers must pay that worker for 24 hours of work? Or for 15 hours of work? The effect of this legislation is to declare war on American agriculture and all who are engaged in the production of food and fiber. And it will inevitably force vast numbers of workers out of jobs. It will increase cost of production, and in many instances it will reduce production. That means higher cost of living.

Those who are earnestly and sincerely concerned about the welfare of American agriculture and the welfare of agricultural workers will have to do some deep soul searching when they undertake to explain a vote in favor of forcing agriculture under the wage and hour law, with all the resulting bookkeeping, controls, and increased costs of production. Instead of finding himself paying the \$1.30 per hour he may find himself in effect being forced by a Federal bureaucrat to pay a third more than that amount, or even more than that. These employers will be at the mercy of a maze of interpretations with respect to hours worked.

Aside from agricultural workers, this bill will affect thousands of people in laundries, hotels, motels, restaurants, and other small industries. Many of the smaller industries are operating on extremely close margins of profit. If they are forced to pay more, they must reduce the number of workers in order to stay in business. And that will strike hardest at the fringe workers, the elderly, those not in robust health, and others who are unable to produce enough to justify their retention. There will undoubtedly be thousands of them.

Mrs. MAY. Mr. Chairman, I rise in support of the amendment. I do so, even though I am in favor of a minimum wage for farm labor. In my own State, until just this year, we paid the highest farm

income in the United States. California leads us by only a slight percentile.

However, the reason I am supporting the amendment is because I honestly think that agriculture should not be included in the bill before us for the reason that there are so many gray areas as to how it would be applied to the very special situations and needs of agriculture. For instance, I do not think we have had time to consider the impact of the bill in the field of cattle and livestock, the gentleman from Texas brought up one point on this.

The same thing applies in the field of canning, processing, the production of sugar, and many other areas.

For that reason, and not because I am opposed to a minimum wage for farm labor, I am supporting the amendment of the gentleman from Nebraska. I think much further work needs to be done on how best we can bring agriculture under the Fair Labor Standards Act, and make just and fair applications of its provisions so that we help the farm laborer, but do not put his employer out of business.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

(Mr. SMITH of Iowa asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Iowa. Mr. Chairman, it seems that on some pieces of legislation and on some issues, many Members are determined to swing the pendulum as far as they can one way or the other.

This is a bad way to legislate. Let me remind you what the doctors did. They practically dared the Congress to push them to the edge of the cliff, and then they said, "Push us off or leave us alone." They went off and a lot further than they would have gone had they not taken that rigid position.

Let me remind you also what happened in the field of civil rights. Some people opposed civil rights so vigorously, they were pushed further than they would otherwise have been. It would be better on all legislation to negotiate for a position of fairness and reasonableness instead of all or nothing.

Let me remind my city friends that are here that there is an amendment that will be offered which would take the agricultural exemptions out of the bill. I am just as vigorously opposed to that, for the reason that about 600,000 workers that would be included and were included in the Roosevelt bill were such small operators that they have no significant impact upon the labor wage rates in their area, and there is no need to cover them.

There is no need to make them file the quarterly reports. They have too little impact on the labor market anyway to be interested in Federal legislation.

I am opposed to that amendment, too.

On the other hand, the amendment before us would take agricultural coverage clear out of the bill.

I opposed the Roosevelt bill very vigorously. I went to this committee and talked to them a long time about the

agricultural amendment. It would even have covered an employer for 1 year who hired a boy part time for 1 day. Many others did, too.

We should commend this committee for the work they did not the agricultural amendment in this bill. There is not any other proposal in this bill that has been as carefully written. I challenge any Member of the House to try to write a better provision on agriculture than is in this bill.

Mr. ALBERT. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the majority leader.

Mr. ALBERT. Mr. Chairman, I commend the gentleman on his statement. This bill has been carefully considered and I think the committee has done a good job and deserves our support. The effect of the amendment before us, if I understand it at all, is that, regardless of size, regardless of income, regardless of ownership, whether absentee or local, corporate or what not, every farming operation would be exempt. We would be putting ourselves in the ridiculous position of exempting large corporations while including much smaller businesses of other types.

Mr. SMITH of Iowa. Anyone who is covered in this bill is a big enough operator that, if he cannot stay in business while paying \$1 an hour, he should not be operating and should not be subsidized by those six or eight workers any longer.

I think the sensible thing for this House to do is to take this agricultural provision as it is written because if we do not we might get something that is badly written or not reasonable and fair.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. SISK. Mr. Chairman, I want to join with my colleague from Iowa. I, too, want to commend the committee for taking a reasonable approach.

We like to brag about what we represent. I believe many Members of Congress know I represent a substantial agricultural area. I understand percentage-wise I will have more farmers covered than any district in the United States, with the possible exception of my friend from California [Mr. HAGEN]. We are in support of the provisions which the committee put in. We believe it is a reasonable approach.

I want to commend Mr. DENT and his committee for taking this reasonable approach to the question. Certainly, Mr. Chairman, I want to oppose vigorously the amendment offered by the gentleman from Nebraska. I commend and thank my colleague from Iowa for yielding.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. HUNGATE. Mr. Chairman, under the family farm exemption and the man-days requirement, I would like to ask if it is true that partners would not be counted for the purpose of determin-

ing the man-days for the quarterly exemption?

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. DENT. They will not be counted.

Mr. HUNGATE. Then, as to farm corporations, whether they are family members or not, everyone would be counted?

Mr. DENT. Yes, including the farmers on Wall Street.

Mr. SMITH of Iowa. Mr. Chairman, I want to say again that this provision only covers those farms which are large enough that they should be able to pay the wage rates in their area if they are efficient enough that they should stay in business. If they can't do it without such cheap labor, they can become a family farmer. This is a very well written provision in the bill. I think the committee deserves support for doing all they have done to draft a fair and reasonable compromise.

Mr. WATSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall not take the full 5 minutes. I have been interested in the arguments we have had here. I do not stand before you as an agricultural authority at all and I fear that we are legislating here today on the advice of too many pseudo farm experts. We have heard a lot of persuasive argument as to what effect this will have on the farmer. Frankly, I believe it will have a serious detrimental effect upon him and will further aggravate his manifold problems and reduce his income.

We have had a lot of persuasive argument about trying to elevate the living standards of the various farmworkers. Perhaps, should we pass this, it might be beneficial in some aspects in that area, but in my judgment it will result in loss of jobs and further migration from the farms to the urban areas.

But until this time I have yet to hear anyone argue on behalf of the third party in this controversy, and that is the consuming public of America. What effect will this have on the consumers? We find the cost of living continuing to climb, climb, climb. Economists place the prime responsibility for this on the greatly increased retail cost of agricultural commodities. So I am standing here pleading in behalf of the consumers of America.

As we vote on this particular measure, I hope we will consider this fact.

As we bring agriculture under the minimum wage law I realize we are only limiting it to large farms with 500-man-days per quarter—but this is only a foot-in-the-door proposition. We have had the experience of legislating in the past, of starting with the larger people and gradually lowering it, until ultimately every farmer in America will be covered.

My only appeal to you ladies and gentlemen is this: Consider not only the interest of the farmers, not only the interest of the laborers, but also the interest of the consuming public in America. Just as surely as we pass this measure and include agriculture under the Fair Labor Standards Act there will be an ever increasing cost-of-food commodities.

Mr. PEPPER. Mr. Chairman, I rise in opposition to the amendment and move to strike the requisite number of words.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Pennsylvania.

Mr. DENT. We can only believe and know that which we hear from our constituents and interested parties.

To the gentleman who just preceded the gentleman in the well, I wish to say that the California Consumers Information Committee has sent to every Member of the California delegation, as well as to me, a complete endorsement of this legislation. He said we had heard nothing from the consumers. I have heard from them. They are for it.

Mr. PEPPER. Mr. Chairman, esteeming as I do my distinguished colleague from Florida [Mr. GURNEY], I cannot in good conscience allow his to be the only expression of a sentiment from the State of Florida upon this amendment and that to be one in support of the amendment, which would deny the beneficial provisions of this act to many of the citizens of my State, a segment of our citizenship too long if not too long and callously neglected by the Government of our country.

Mr. Chairman beginning in 1938, I had an association with this subject—the minimum wage law. In 1949 I had the privilege of handling the legislation in the other body.

It is not true, as has been indicated in this debate, that the minimum wage law has had the primary effect of dislocating rather than benefiting the labor it affected. On the contrary, if that had been true, after the experiment of 1938 we would not have adopted a bill to increase the minimum wage and to expand the coverage in 1949 in the Congress of the United States. If that had been true, in 1961 we would not have increased the minimum wage and expanded the coverage of the law in the Congress of the United States.

If that were true, this distinguished committee would not have reported this measure to this body for consideration today.

On the contrary, the minimum wage law has had the salutary effect of putting a floor under the wages of this country, primarily for the benefit of those who did not have the power which goes with collective bargaining, which is associated with unionism. The same people, I fear I must say, who have opposed the minimum wage for many classes of our people have vigorously objected to their associating themselves in unions, where they would have some economic collective bargaining power.

Mr. Chairman, this is a modest beginning, to give the benefit of minimum wage legislation to a deserving segment of our citizens.

Let us look at the figures. Today there are 29.6 million persons covered by existing minimum wage legislation. Newly covered nonfarmworkers in this bill total 6,093,000. This bill would add that many from all the nonfarm people, and the pending amendment of the able gentleman from Nebraska would elimi-

nate only 485,000 agricultural employees the bill covers. Why, there are 665,000 new Federal employees, covered in this bill and they certainly are not the most underpaid segment of our citizenship.

Yet to get rid of only 485,000 persons employed in agriculture covered for the first time in this bill the able gentleman would offer and vigorously press for the adoption of this amendment. This bill applies only to 1.6 percent of our farms and farmers, and the larger farmers relatively, many of them the corporate farmers of the Nation. Surely, Mr. Chairman, if we are ever going to make a beginning toward protecting the farmworker whose toil is usually so exacting and if we are not forever going to treat the farmworker as not only a second-class citizen but as an utterly neglected citizen, we must begin sometime.

I concur in the commendations of this able committee for the reasonable and moderate beginning it has made for the protection of the farmworker and I oppose the adoption of this amendment.

Mr. POLANCO-ABREU. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the Resident Commissioner from Puerto Rico.

Mr. POLANCO-ABREU. Mr. Chairman, I support the amendment as far as excluding the extension of coverage to agricultural workers in Puerto Rico.

A sound and viable agriculture is an absolute essential to the general welfare of Puerto Rico. In recent years, in an attempt to broaden the economic base, considerable emphasis has been placed on Puerto Rico's industrialization. Thus, we have seen small and medium industries springing up throughout the island under the stimulus of "Operation Bootstrap." Nevertheless, helpful and necessary as the industrialization program has been, agriculture still remains a dominant force in Puerto Rican life. It is still the one largest employer of labor and the one principal source of income to the Commonwealth economy.

Until the early 1950's, Puerto Rico depended almost exclusively upon agriculture. Agriculture, and agriculture alone, generated the income with which to purchase the many goods to whose production the island's climate and limited resources were not then best suited—goods produced better and cheaper on the mainland. It is in the context of this environment that we must appraise Puerto Rico's agriculture today.

Historically, Puerto Rico has been characterized by a population which, by sheer numbers, has pressed heavily against the island's ability to support. Since agriculture was the dominant factor in the economy, agriculture was forced to shoulder the burden of providing the principal source of employment. This meant spreading the work among the greatest number of workers. Because of this, however, and because of the island's limited agricultural resources, it also meant a relatively low level of wages.

In more recent times—that is, within the last 10 or 15 years—there have occurred substantial changes in the Puerto Rican economy, including changes in the island's agriculture. The need to employ

a maximum number of workers as a social palliative has diminished and in many cases been replaced by the need to obtain maximum output per worker. This has enabled agricultural wages to rise. Indeed, the rise in agricultural wages has in certain instances paralleled or exceeded that in the industrial segment.

Despite this upgrading of its wage structure, the island simply has not yet had time to make all the adjustments in its agricultural economy necessary to permit survival under a Federal minimum such as that contemplated by H.R. 13712. The downward trend in labor requirements per unit of output, as evidenced in agriculture in the mainland, has been in progress many years. A similar trend in Puerto Rican agriculture is still in its earliest stages. Puerto Rican agriculture is still years away from the labor efficiency found in the mainland.

In the meantime, to saddle this industry with a minimum wage tailored primarily to mainland rather than to Puerto Rican conditions would work irreparable harm. Agriculture is still a dominant force in the economy and should encourage to make its full contribution to the general welfare. While having shown marked progress in recent years, the Puerto Rican economy nevertheless still cannot afford to see one of its major components seriously crippled. To blanket Puerto Rican agriculture under the Federal minimum wage structure, as presently contemplated by H.R. 13712, would do just that.

Mr. Chairman, I hope and trust that our colleagues will accept my amendment to H.R. 13712 so as to free Puerto Rico's agriculture from such an intolerable burden.

My position is supported by the report followed by the Senate Committees on Labor, Agriculture and Industry and Commerce on Concurrent Resolution 16 of the House of Representatives of Puerto Rico. The report reads as follows:

With regard to agriculture it should be particularly pointed out how undesirable and unfruitful would be the application of the provisions of the bill. Our main agricultural commodity is sugar. The wages the cane sugar grower can pay must bear relation with the price at which Puerto Rican sugar is sold in the United States. The United States sugar market is controlled by a quota system. The price at which sugar is sold is not fixed through free competition. The Secretary of Agriculture of the United States has in his hands the mechanisms to control sugar prices in the continental market. Puerto Rico has no means whatsoever to influence the price at which sugar is sold. The wages that can be paid in Puerto Rico in sugar cane cultivation depend on the price of sugar on the United States market. It cannot be higher than what that price allows. On the other hand, to pay wages lower than what economic conditions would permit, would not mean in any wise a competitive advantage, in the market of the United States, for sugar produced in Puerto Rico. If Puerto Rico sold its sugar at a price lower than the prevailing price in the United States, it would not therefore sell more sugar, in unfair competition with sugar produced in the United States, since the quantity of sugar that Puerto Rico can sell is limited to a quota. The criteria that the industrial com-

mittees would have to follow in the determination of wages, according to law, would hence be inapplicable in the case of sugar cane.

Coffee is another of the farm products of Puerto Rico. Coffee produced in Puerto Rico is almost all locally consumed. Save in the State of Hawaii, no coffee is produced in the United States. There is no competition between Puerto Rican and Hawaiian coffee. Puerto Rico's coffee is sold on the United States market only in those years in which the crop exceeds local consumption. It does not compete there with coffee produced in the United States, but with coffee imported from foreign countries, duty free.

It is evident that the fixing of wages in Puerto Rico in these two items of our agriculture is a matter that must be governed by the local situation, or by circumstances, as in the case of sugar, which are already predetermined by Congressional law. The intervention of federally appointed industrial committees in the fixing of wages in sugar cane and coffee, taken care of as it is by local law, does not respond to any practical necessity.

In so far as the law is applicable to the tropical food crops of Puerto Rico, which in their largest part are locally consumed, it is obvious that the situation would still be the more preposterous.

The law includes all farmers who have employed during the preceding year 500 man-days in any quarter. A man-day, as defined in the bill, is any man working any part of the day. Excluded from the computation are only the immediate relatives of the farmer and those workers who, besides meeting other requirements have not performed farm tasks for a period of 13 weeks during the preceding year. This last exception has very little application in Puerto Rico, where we have a rural population of 55.8 per cent of our inhabitants, a rural population whose livelihood is, almost exclusively, farming. It would seem quite odd to find a rural worker in Puerto Rico who is not customarily an agricultural laborer. Because of the complexity of computations, many difficulties would be encountered to determine which farmers would be subject to the law and which would not, particularly in the case of small farmers. This would bring about unnecessary anguish and worry, besides issues of a legal nature.

(Mr. POLANCO-ABREU asked and was given permission to revise and extend his remarks.)

Mr. DENT. Mr. Chairman, I rise to make a unanimous consent request. I wonder if the gentleman from Ohio or the gentleman from California could reach some agreement with us on the time on this amendment and all others to it.

Mr. AYRES. Are all those who want to speak standing?

Mr. DENT. Mr. Chairman, I ask unanimous consent that the House take 20 more minutes for debate on this amendment and all others to it, and that all debate close at that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. GATHINGS. Mr. Chairman, I object.

Mr. AYRES. Mr. Chairman, I wonder if the gentleman from Pennsylvania would change his request to 4 o'clock as the time for cutoff of all debate.

Mr. DENT. No. That is too long.

Mr. GATHINGS. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. GATHINGS. Mr. Chairman, the gentleman from South Carolina [Mr. WATSON] made reference to the issue of inflation.

I would like to call the attention of the committee to an Associated Press article that appeared in the early part of April of this year, and here is what it says:

GNP RISES SHARPLY IN FIRST QUARTER

Gross national product rose sharply during the first quarter of this year, to a seasonally adjusted annual rate of \$714 billion, the Commerce Department reported today.

The jump in the value of all goods and services produced in the economy was much larger than administration officials anticipated in January.

The increase could add new fuel to the continuing debate over the need for a tax increase as a hedge against inflation.

Yes, Mr. Chairman, this inflation issue is most significant in this debate. The bill as presented to us could mean increased wages for millions of wage earners which would be greater than the guidelines set by the administration for wage-price increases of 3.2 percent.

Mr. Chairman, I rise in support of the amendment which has been offered by the gentleman from Nebraska [Mr. MARTIN].

I want to call your attention to the fact that in those areas of the country which produce cotton a great number of farmworkers will be driven from the farms to the cities where they will seek welfare benefits. We operate with a tenant or sharecropper system. Here is a farmer who has 12 tenant houses and 12 tenant families live on his place. They are good tenant houses. They are desirable homes in which to live. He has on that farm people who have been in those houses for years and years and in some instances covering farm ownership or operation for two generations.

Now, Mr. Chairman, what will be the result of this legislation? The result will be this: Out of some 12 tenant workers and their families, you will find that there are 7 heads of family of them, perhaps, who are skilled workers. They are paid adequate wages as good or above what is provided for in this legislation, which we are now considering. But on the other hand, Mr. Chairman, you have some five tenant houses filled with people who are unskilled. They have remained there and they receive free rent and also free fuel; that is to say, they get their stove wood or their gas for heating and cooking furnished to them. They have a garden plot next to their home with which they are able to supplement their food requirements for their families.

In addition, they receive free transportation.

These folk may not be needed all the year. When they need a doctor, a doctor is called and made available to their families.

They are hired to chop cotton in the spring; and to pick cotton in the fall. The rest of the year they are given every odd job possible or available. But they cannot be paid throughout the year as there is not enough work on the farm to keep them busy at all seasons.

The result is that 7 of those 12 families will remain there because they are needed to operate the tractors, the combines, and cottonpickers. But, the

other five, what will happen to them? They will go to town. They will move to town or will move to a city nearby, and be thrown on the relief rolls. That is going to be the situation if some relief is not attained through an amendment like the one we are now considering.

Mr. POOL. Mr. Chairman, will the gentleman yield?

Mr. GATHINGS. I yield to the gentleman from Texas.

Mr. POOL. Of the five families which go to the city, they will go onto relief rolls and the Federal Government is going to have to take care of them; is that not correct?

Mr. GATHINGS. The Federal Government and State or local is going to have to pay the cost. That is what is going to happen.

Mr. POOL. Mr. Chairman, if the gentleman will yield further; therefore, we have to figure all of that into the cost of this proposed bill?

Mr. GATHINGS. That is the fact of the matter. This legislation set out to help the tenant and sharecropper but you are not going to help them. You are going to drive them to the city.

Mr. POOL. Mr. Chairman, if the gentleman will yield further, he is going to be out of a job and will starve to death if he is not placed on the relief rolls.

Mr. GATHINGS. That is right. He will not have a job at all. However, the others that are skilled will be kept there and will be maintained and will be paid good wages.

The farmer is the only person in our economy who goes to the marketplace with his commodities and is thrown upon the mercy of the buying public. He says to the consuming public, "How much am I offered for my cotton, corn, wheat, peanuts, tobacco, soybeans," or whatever the product is that he produces and wishes to sell. At the time he is selling the produce of his labor and work, little consideration is given the question of how much the cost was to produce that crop.

The farmer is caught in a situation of having to pay more and more for those things that he must buy in his operations. These include labor which has consistently gone up in recent years and that part of the cost represents from 40 to 45 percent of the total outlay of expense in the operation of a cotton farm in which handpickers and choppers are used. In 1946 I was in the farm implement business. We sold a small tractor for about \$1,600. Today that tractor has more than doubled in price. The attachments and equipment that go with the tractor have likewise and similarly advanced in price. The cost of farm trucks has risen at about the same rate since 1946. Repair parts such as the overhauling of motors continue to soar in cost.

Now let us take a look at what has happened to the price of cotton. Three years ago the support level on Middling inch cotton was 32.47 cents a pound. Two years ago that support level dropped to 30 cents a pound. In 1965 that support level dropped to 29 cents a pound for the same Middling inch cotton.

The farmer is the only member of society that goes into the marketplace and

asks how much will you offer for my produce and commodities.

The amendment to strike agricultural provisions in this bill should be adopted. I trust it will be approved.

Mr. WAGGONNER. Mr. Chairman, I move to strike the requisite number of words.

(Mr. WAGGONNER asked and was given permission to revise and extend his remarks.)

Mr. WAGGONNER. Mr. Chairman, I shall not take 5 minutes, but I take this time now to ask a question of the chairman of the subcommittee, or some member of the committee, with relation to this agricultural section.

Mr. Chairman, with regard to the formula or method used for figuring exemptions in man-days worked I would like to know if the members of a farmer's family are to be included in computing exemptions?

Mr. DENT. Mr. Chairman, if the gentleman will yield, they would not be.

Mr. WAGGONNER. Would employees who are not paid on an hourly rate be included? Monthly employees such as managers for example.

Mr. DENT. Yes; they are included.

However, I must clarify and the gentleman must understand if they are not paid by an hourly wage, in most instances they are tenant farmers or live on the premises. All of the costs that are attached to their living expenses are taken into consideration in figuring the wage.

I tell you in all honesty that this will will not touch anything but the high type corporate farm.

Mr. WAGGONNER. I thank the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BENNETT. Mr. Chairman, I move to strike out the last word.

(Mr. BENNETT asked and was given permission to revise and extend his remarks.)

Mr. BENNETT. Mr. Chairman, I feel that this amendment that has been offered would strike a blow at all farmworkers. I have been particularly interested in trying to protect migratory farmworkers where I have found in my State and in other States injustices working against them.

I think it will be in the interest of our area as well, as all the United States, if farmworkers, and particularly migratory workers, are given the protection that this bill affords. Perhaps the bill could be improved by further amendments or modifications but to remove all farm labor from the bill would be a backward step. I had the privilege of testifying before the committee on this subject and I am glad they saw fit to cover these good Americans in the provisions of the bill. I also suggested to the committee the need to have all Federal employees covered by the minimum wage law and it is my understanding that section 306 will have that effect. I certainly hope so.

Mr. SMITH of Virginia. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, for many years we have

had on the books minimum wage legislation. This is the first time in my recollection that any attempt has been made seriously to extend it to farm labor, which operates under entirely different conditions and wage arrangements and so forth from any other industry in the country.

The farming business is a variegated business. There are many products involved and there are many different methods of operation.

The farmer in the past—until the government got hold of him—has been a very independent man. He has been the backbone of this country. Now we are undertaking to take all the farmers, with all of their business, and put them in a straitjacket under the dictatorship of a bureaucrat.

The ordinary farmer is not a bookkeeper. It would be utterly impossible for him to keep an accurate record of what he has to do.

Now we have done enough to the American farmer up to now to put most of them out of business. Now we are going to put them in this straitjacket where everybody is governed by the same system and the same regulations. It is utterly impossible for the farmer to carry on his business under such a system and such regulations.

You know very recently, last year, I remember very well the complaints that came here from California because they could not get the labor to pick their strawberries. We fixed it so that they cannot get the labor to pick vegetables. We fixed it so that they cannot get the labor to pick their apples. I think we have done them enough damage up to now so that we might lay off them for a little while before we put all of them out of business.

You know somebody has to do some farming or the rest of you fellows around here are not going to be eating—unless you work out some synthetic kind of food.

But this is serious business—this farming business. I happen to have been born and reared on a farm and I have been interested and have been engaged in the farming business throughout all of my life. I know something about what I am talking of in my area. I think a lot of the folks who voted for these farm measures really did not understand the practical difficulties that the farmer operates under.

The type of farm operation that is predominant in my district is the dairy business. They are going out of business so rapidly in this area in my congressional district that we are just about to run out of the dairy business. You tell a man on a farm that he has to keep account of how much labor he uses and if he hires a fellow for a half hour to milk a cow, then that is a full day's work under this bill and it is so defined in this bill. If a man does any work during the day, it is a full day's work. I happen to have tenants who run dairy farms and I have some knowledge on the subject. I have been in the business for 30-and-some-odd years. A man has a herd of 100 cows—that is not a big dairy—you can-

not run a dairy and break even with a farm any smaller than that. You have to cultivate your land and raise your feed and feed those cows. You have to milk those cows every day, and there are no Sundays off. You have to milk them on Sundays, too. Those farmers do not fit into this picture. A 100-cow dairy, which I would say is smaller than the average, would come under the provisions of this bill. That farmer would have to keep all of the records specified.

Then comes the question of the benefits the employees receive. They can receive their houses free, their electric lights, their garden plots, with time to work them; and a certain amount of food-stuffs. Just stop and think what you would be doing to these farmers. I think you have done enough to the farmer. Please do not try to help them any more.

Mr. GOODELL. Mr. Chairman, I rise in support of the amendment. As I said earlier, I will vote for this legislation regardless of the adoption of amendments. But there have been some statements made here about the exclusion of farm labor that I think are not entirely accurate and could mislead our colleagues.

The statement has been made that only corporate farmers will be covered under this legislation. Let me give you some examples of the types of farmers who could very quickly be covered under this legislation. Any seasonal operation is vulnerable. Any farmer who employs a large number of workers for a very short period of time is vulnerable.

Example: A farmer who uses migrant labor. Migrant labor is counted throughout for coverage here. A farmer who uses 50 migrant laborers for 10 days would be covered with all of his permanent employees for the year. He might employ 3 people in his regular year-round operation, but if he employs 50 migrant laborers for 10 days, he meets the 500-man-day requirement, and he is covered. He is no corporate farmer.

A lot of small farms have seasonal operations in which a large labor force is put on for a short period of time. That is the problem with the 500-man-day requirement.

There is another confusion involved here. If you will look at the bill, if you have it before you, on pages 34 and 35 is discussed the type of farm labor that will not be counted toward eligibility, toward this 500-man-day requirement. In order for a worker to be not counted, he must meet all the requirements on page 35—all of them—not a single one alone. Those requirements are as follows: He must be a hand harvest laborer working for piece rate. If he is working for an hourly rate, he is counted. He must be a hand harvest laborer working for piece rate. He must commute daily from his permanent residence to his work. Finally, he must work less than 13 weeks in agriculture.

Those three requirements must be met if the Secretary of Labor is going to go in and say, "We will not count those workers you have on now."

This situation would create havoc for a number of types of farm operations. Each farm operation and each com-

modity is somewhat different. We had examples of farms that employ large numbers of workers who do commute daily. The workers commute daily to do types of work on the farm. These workers also work less than 13 weeks in a year in farmwork. So they comply with two of the three requirements, but they are not paid on a piece rate. They are paid an hourly rate.

If they are paid an hourly rate, they are counted toward this 500 man-days. With the various types of farm operations in this country, there will be a number of small farms that have seasonal peaks which will be covered with their permanent employees—one, two, three, or four permanent employees through the year. If they meet this 500-man-day requirement in any quarter, they are covered for the whole year. That is the difficulty with the farm provisions for coverage of agricultural workers in this bill today.

I myself believe we should move toward covering farmworkers. We can take some first steps even in this legislation, in spite of the difficulties farmers are having. But let no one be misled that we are going to cover only corporate farms under this bill. We are going to cover a great many small operations.

Mr. HARSHA. Mr. Chairman, I rise in support of the amendment to take the farmers out of the minimum wage coverage. Historically, farmers have been excluded from coverage under this law because of the very nature of their business.

Now this administration who has been using the farmer as a whipping boy for its own inflationary policies is again going to add to the dilemma of the farmer by increasing his costs and decreasing net profit with its insistence that farmers be covered under this minimum wage law. The domestic policies of this administration have been pushing farm production costs to record heights, now to require him to meet these additional costs of increased labor, wages will push his production costs even higher. The Secretary of Agriculture has been depressing grain and livestock prices by dumping Government-owned commodities on the market and expressing pleasure as prices drop. The administration has increased imports on cheese, restricted exportation of hides, sharply curtailed purchases of pork and dairy products by the military and recommended drastic cuts in the school milk and lunch program. Now to further implement its "war on agriculture" it raises farm labor costs. Such action is certainly inequitable and completely unjustified.

This bill is completely discriminatory in its method of treatment of farmers. Many business enterprises are excluded if they do a gross annual business of under \$500,000. Yet the farmer is covered irrespective of his gross sales if he uses more than 500 man-days of agricultural labor per quarter. His total volume of sales might be only \$25,000 yet he is required to pay a wage an enterprise grossing 20 times what he does, is not required to pay. This is certainly not fair nor equitable under any stretch of

the imagination. Furthermore, Mr. Chairman, many farmers in addition to the wages he pays his worker provides him a place to live, gives him many food products off the farm, and many other benefits, yet no credit apparently is to be granted the farmer for these; nevertheless they cost the farmer considerable money. These fringe benefits will undoubtedly exceed the increases provided for in this minimum wage law and the worker is far better off with them than he is with the increased wage. I predict that if the farmer is forced to pay this higher wage he will take away many of these fringe benefits. He will have to protect himself—so the worker is going to be worse off in the long run and the Federal Government has its long nose further into the business of the American farmer.

Mr. Chairman, this action will drive more Americans from the farm and further deplete the number of farms in this country. I urge my colleagues to support the American farmer and exempt him from coverage under this bill. Let us stop the administration from further eroding the profits of the farmer and support this amendment.

Mr. LATTA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the amendment to remove agricultural workers from coverage under the provisions of this minimum wage bill. Their inclusion in this bill will open up a whole new field for Federal intervention and regulation. Further intervention into and regulation of our farmers' affairs by the Federal Government is something that our farmers do not want. The Federal Government has already crippled many of our Nation's farmers by all of its controls and regulations and subsequently forced them off their farms. Why, I ask, put this additional burden on those remaining and eventually cause them to seek other ways of making a livelihood?

Our Nation must depend upon our family type farmers for its food. We cannot depend on the large corporate type farms to do the job. This has been proven time and time again, and is at present being proven in the Soviet Union. Yet, there are those among us today who are willing to put the future of these remaining family-type farms in question by further burdening them by inclusion in a bill specifically designed for big business and industry. Under this bill a retail business would have to gross \$500,000 per year to be covered and after 2 years \$250,000 per year. Yet, regardless of a farmer's gross income he would be covered. Yes, I realize that under the foot-in-the-door approach used in this bill, a farmer's coverage would at first be on a 500-man-day per quarter basis. But, everyone knows that the history of this legislation has been to expand rather than diminish the coverage. The next session of Congress would undoubtedly cut these man-days in half and a succeeding Congress could easily remove them entirely. So, let us not kid ourselves into believing that only our large farm operations would be covered under this bill once the regulations had been

promulgated and the precedent established.

I need not remind our farmers that they have not been receiving a fair return on their investments and for their labors. Yet, this type legislation would further diminish their small return. I would think that the Secretary of Agriculture would realize this, but, as the gentleman from Pennsylvania [Mr. DENT], the bill's author, said before the Rules Committee:

The Secretary of Agriculture is not opposed to this legislation.

I say he should be if he is concerned about farm income. However, on second thought, I wonder if he really is concerned about farm income. If he is, one could not have detected it from the protestations that were heard just recently when a few farm prices started to rise or when pork and butter were withdrawn from our Armed Forces.

(Mr. LATTI asked and was given permission to revise and extend his remarks.)

Mr. FOUNTAIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

[Mr. FOUNTAIN addressed the Committee. His remarks will appear hereafter in the Appendix.]

(Mr. FOUNTAIN asked and was given permission to revise and extend his remarks.)

Mr. MAHON. Mr. Chairman, I move to strike the requisite number of words. I rise in favor of the amendment.

From time to time in past years, proposals have been made that farmworkers be covered under minimum wage legislation. This should not be done and I want to record my continued opposition to the coverage of farm labor under minimum wage legislation.

Such legislation would be hurtful to farmers, farmworkers, and consumers.

I strongly support the pending amendment to eliminate farmworkers from coverage.

(Mr. MAHON asked and was given permission to revise and extend his remarks.)

Mr. ABERNETHY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to inquire of the subcommittee chairman, Mr. DENT, if, once a farmer finds himself under your bill, will he remain under it from thereon and thereafter?

Mr. DENT. No. It always looks back to the previous year. He can be covered this year because of the conditions of the crops and weather, and so forth. But then next year he may be decreased to less than 500 man-days and he will not be covered.

Mr. ABERNETHY. To illustrate, if a farmer used the required labor in 1966, then such would bring him under in 1967. He would be under the law for the entire year 1967. But if, during 1967, he did not use the required amount, which is set at 500 man-days in any one quarter, he would not be under the law in 1968. Is that correct?

Mr. DENT. That is correct.

Mr. ABERNETHY. Suppose this farm is divided next year. It is sold, and it comes under the ownership of two different people. What is the status of the two owners?

Mr. DENT. There are two different places, then, and it would have to follow that each of the places had the 500 man-days. That is a simple matter of law.

Mr. ABERNETHY. Will the law apply to the particular individual and not the land?

Mr. DENT. It applies to the employer.

Mr. ABERNETHY. Then there is no requirement that it must be the same farmer and the same farmland. Is that correct?

Mr. DENT. Are you trying to say that if I had qualified to be covered, and I moved off the farm and into the city, I would still be covered?

Mr. ABERNETHY. Let us put it this way: Suppose the gentleman has a farm, and he is covered this year. He sells that farm and buys another. What then would be your situation as regards this law?

Mr. DENT. There was a man named Solomon. He could not answer everything, and I cannot. I do not believe anybody can answer that. Hypothetical cases can be thrown into the aisle until we reach the moon, but it is not possible for me to anticipate that a farm will be split into 10 sections and sold to a man, perhaps to a man who will build apartments. I do not know what the ruling will be. A request will have to be made to the interested department, and it will rule on the interested employer.

Mr. ABERNETHY. What was the intention of the gentleman when he put this provision in the bill? What was your intention? Was it your intention for the coverage to follow the man thereafter, even though he may have sold the farm and moved on to another?

Mr. DENT. No, I did not intend that. I intend that if a farm is being farmed by a farmer, and he employs labor for 500 man-days a year, and if that same man had that same farm the next year and again hired the people, he would be covered.

If we go into hypothetical situations, there is no limit to the stretch we could make. We could say, "Here is a farmer who had 500 man-days last year, and had 190 acres. He sold 5 acres. Will he now come under the terms of the bill?"

I would not be able to answer that. I cannot make legislative history out of something which may be probable but is not attached to the meaning of the bill.

Mr. ABERNETHY. I assure the gentleman it is not my intention to submit a series of hypothetical questions that confuse. I am simply seeking information. I believe the gentleman has been quite fair and endeavored to enlighten me.

Mr. DENT. I have tried. I really do not know.

Mr. ABERNETHY. But I am trying to determine just what this bill will do. My farmers want to know. I thank the gentleman for his answers, but they do not clear up the confusion.

Mr. Chairman, while I have the floor,

may I say that the Martin amendment should be adopted. To include farmers in the minimum wage law would be a serious mistake both for them and the consumers.

Every farm in America will eventually become a disaster area if this law is made applicable to agriculture. While the provision in this bill will exempt the majority of our farms and farmers, it is simply a foot-in-the-door proposition and coverage will soon be expanded to every farm in America. As we all know, it has been the policy of the Congress to modify and eventually repeal all exemptions.

If the proponents of this measure want to kill the way of life of American agriculture and reduce it to the status of big corporate operations, then I can think of no better way to do it than to direct Uncle Sam to move in and begin fixing farm wages.

Second only to the gambling fanatics who frequent the dens of chance of Monte Carlo, there is no greater gambler than those who till the soil. Some years the weather is good, some it is bad. Some years the crops are good, some they are bad. There is a further risk to farming not applicable to most businesses or enterprises. The farmer never knows what he will get for his crop. He takes it to market and has to accept what he is offered. He has no bargaining power whatsoever. He is at the mercy of the buyers.

Furthermore, this idea of minimum farm wages would force more and more mechanization, and more unemployment of farmworkers. The unemployed will have no choice but to depart their rural areas and head for your already overcrowded cities. Untrained and unadapted for urban employment, these unemployed farmworkers will become a part of and further aggravate the already complicated social problems of our cities.

Lastly, there is no question but that bringing farmers under this bill will add to the cost of living. Prices will soar. And the Great Society could very well become the hungry society.

I earnestly urge that the Martin amendment be adopted.

Mr. ROGERS of Texas. Mr. Chairman, I move to strike the requisite number of words.

[Mr. ROGERS of Texas addressed the Committee. His remarks will appear hereafter in the Appendix.]

(Mr. ROGERS of Texas asked and was given permission to revise and extend his remarks.)

Mr. RANDALL. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Nebraska [Mr. MARTIN] which would eliminate all coverage for agricultural workers under H.R. 13712.

The proponent of this amendment to eliminate coverage predicates its merit upon the fact that the agricultural economy is in the doldrums and that matters would be worse if minimum wage provisions were applied to agricultural employers. To oppose his amendment means to favor retention of the provision of the bill as it comes from the committee.

The bill as written contains the clear stipulation that there shall be an exemption for agricultural employees if the employer did not during any calendar quarter use more than 500 man-days of agricultural employees. This is the approximate equivalent of seven employees full time in a calendar quarter. In other words it would mean a farmer must have seven or more full-time employees before these employees would receive minimum wage coverage. This is in addition to the exemption excluding agricultural employees if they are a parent, spouse, child, or other member of the employer's immediate family.

The question might properly be asked, What is the effect of these exemptions? The answer is that coverage would apply only to a small portion of all farmers. The provision would have application only to operations of considerable size.

I do not profess to be an agricultural economist. I have heard the expression used quite frequently to describe large agricultural operations as "corporate farming." I don't know whether corporations are actually formed to engage in farming or not. On the other hand, my concern is for the perpetuation of the family farm. It would seem to me that the provision of H.R. 13712 as originally written without this proposed amendment would have a beneficial effect for the family farmer.

To demonstrate this point, if higher minimum wages are paid by large or corporate farmers and the exemption continued for the small or family farmer, this should put the family farmer in a better competitive position. The large or corporate farmer would henceforth, if this bill is passed, be required to pay a higher minimum wage to those who need it the most, being the large numbers of migrant or transient workers he employs, while the family farmer by using his own family or neighbors or those who commute from the smaller communities near the farms will continue to enjoy the minimum wage exemption. In my judgment this is the reason why it is so important that the provision as written be retained in the bill rather than the elimination of all minimum wage coverage as now proposed.

Prior to consideration of this bill, we received some correspondence from our farmers who were concerned about the inclusion of any agricultural employees in the minimum wage bill. On the other hand, our office was the recipient of an enthusiastic letter from one of our constituents, who wrote as chairman of National Egg Producers Organization. At his request, we caused to be included in the Appendix of the CONGRESSIONAL RECORD on March 9, 1966, the letter which pointed out:

We are hearing a lot about eliminating poverty in rural areas and redevelopment of rural America. Frankly, there is very little wrong with rural America that a decent income level wouldn't cure.

The chairman of the Egg Producers goes on to point out:

Our country towns have been bled white by loss of millions of their people who have flocked to the big cities in search of greener

pastures. This exodus has added to such urban problems as housing, traffic, air pollution, etc., and much of it could have been prevented if we had been realistic and included all workers, including farm workers, under the minimum wage and hour law at the very start.

Finally, near the conclusion of the rather lengthy letter our correspondent concludes by saying:

We strongly urge inclusion of all farm workers in the wage and hour law, and at the same minimum wage as other workers, so that farmers can compete on even terms for scarce labor to produce more meat and milk for Americans and more grain and soybeans for a hungry world.

Let's keep the remaining farmers on the farms producing food instead of going to the cities to produce more smog, slums, and traffic jams. Immediate inclusion of all farm workers is a must.

Mr. Chairman, one of the speakers in the debate a few moments ago hinted at the fact that farming is now a most important occupation because we must feed almost the entire world. He mentioned the increased productivity of farmworkers increasing from 1940 when 1 farmworker supplied the needs of only 11 persons up to the point where in 1964, 1 farmworker supplied the farm needs of 33 persons. Yes, I think it is true we may be required very soon to help feed the world. There may be some remaining possible gain in productivity because of mechanical harvesting and an increased use of fertilizer and chemical agents, but there must certainly be a limit to this productivity. For that reason it is an equal certainty we must retain on the farms a large farm population if we are to provide the world's food supply. The experts say within the next decade many portions of the world will suffer from famine. It is for such reasons and objectives I agree with my constituent that the best way to keep farmers on the farm is to pay wages which will keep farmers on the farm.

One of the previous speakers bemoaned the fact in this debate on the amendment to eliminate farm coverage, everyone seemed to be worried about the farmer or the farmworker, and the consumer had been forgotten. He made a slight effort to renew the old argument that there was a conflict of interest between the farmer and consumer. The speaker was using the old device to array the city against the country or the farmer against the consumer. Well, if the price of farm products should rise more than wages as a result of this coverage, of course the intent of this legislation would be negated. But the fact of the matter is that field labor is a very small percentage of the cost to the consumer. It has been estimated the cost of bringing agricultural wages up to a level of about \$1.25 an hour is approximately equivalent to 1 penny per unit for most vegetables or fruits, whether that unit is a pound or dozen or head or whatever the unit may be. If retail prices should go up more than this amount and if then there is an outcry to blame such an increase of food on rising cost of farm labor then everyone concerned should forth-

with demand a complete congressional inquiry.

It should be emphasized that for agricultural workers we are talking about a minimum wage which begins at only \$1 an hour on February 1, 1967, and progressed to no higher than \$1.30 an hour in 1969. Again the intention is to provide protection for farm employees of the large agri-business enterprises. This provision will not injure the family farmer but in fact should benefit his operation and hopefully assist perpetuation of the family farm.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Nebraska [Mr. MARTIN].

The question was taken, and the Chairman announced that the "noes" appeared to have it.

Mr. MARTIN of Nebraska. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. MARTIN of Nebraska and Mr. BURTON of California.

The Committee divided and the tellers reported that there were—ayes 149, noes 157.

So the amendments were rejected.

AMENDMENT OFFERED BY MR. BERRY

Mr. BERRY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BERRY: On page 34, line 24, strike out "or"; page 35, line 9, strike out the period and the quotation mark and insert in lieu thereof ", or"; and, after line 9, insert the following new paragraph:

"(3) any individual who is employed by an employer engaged in agriculture if such individual is employed on a farm or ranch which is principally engaged in the production or feeding of livestock."

Mr. BERRY. Mr. Chairman, I have two amendments designed to make the same correction in two different parts of the bill, and I ask unanimous consent that both amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

The CHAIRMAN. The Clerk will report the second amendment.

The Clerk read as follows:

Amendment offered by Mr. BERRY: On page 37, line 12, strike out "or" and, in line 14, immediately before the semicolon insert the following: ", or (C) if such employee is employed on a farm or ranch which is principally engaged in the production or feeding of livestock".

The CHAIRMAN. The gentleman from South Dakota is recognized for 5 minutes in support of his amendment.

Mr. DENT. Mr. Chairman, I wonder if we could have the courtesy of a copy of these amendments? They are complicated amendments. A moment ago we could not obtain a copy of that amendment. The gentleman now wants an amendment to cut out what he put into the bill. We must have copies of these amendments in order to know intelligently how to vote on this situation.

Mr. BERRY. Mr. Chairman, this is a simple amendment. All it does is to exempt, if you please, from the provi-

sions of the bill those engaged in ranching and the producing and the feeding of livestock.

Now, Mr. Chairman, from the very nature of the bill itself, it means primarily that these are the larger ranches, already paying probably more, much more, than the minimum wage. For these people it will just simply exempt them from having to make these reports and from having some bureaucrat breathing down their neck.

As a matter of fact, in the ranch business, whether it be ranching in the production of cattle or sheep ranching, there is not any way of determining how many hours a week a man works. No bureaucrat can sit on the tongue of a sheep wagon and tell whether a sheepherder, a man out there with his flock, spends 24 hours a day, or is working 8 hours a day or 40 hours a week. It is impossible to make that determination.

Mr. Chairman, the purpose of these amendments is simply to relieve these larger operators, where they have to have additional help during lambing, during calving time, and during haying time, relieve them of making these reports, and having someone come out and, in effect, see whether or not their help is working 40 hours a week or 41 hours a week, when no one under the provisions of this bill can tell anyway.

Mr. Chairman, I yield back the balance of my time.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, these amendments were taken up by the committee on more than one occasion. The gentleman from Nebraska offered them in another form, but they were designed to accomplish the same thing.

Mr. Chairman, we deliberated over them and discussed them. We talked to the various groups involved. I talked to the ranch people myself and other men from the West talked to me about it.

People came in from the West and they talked to us here. The sheep people and the cattle people came in and I want to say that we left very friendly. If I were to quote them, I would say to you that they are not opposed to this legislation.

The record you are talking about is contained on page 22 of the report. I do not believe anybody can hire anybody with or without a bill without having their name, their home address, the date of their birth and if they are under 19 years of age and their sex and the kind of work they are going to do and the time of the day and the day of the week and when the employee's workweek begins and the hours he works each week.

If you hire anybody whether he is covered by the bill or not, you ought to know his name and you have to know how many hours he works in order to pay him his total weekly earnings. When you pay the worker, you have to mark it down somewhere on a check or something that you are paying the man. These records that he is keeping are the only records that we can get so that we can come before this House and deliberate on a bill intelligently. I was asked a question a minute ago and I had to confess to the House, and I did confess, that I

could not answer the question. Why? Because in areas where they do not keep any records and have no records, none of us have any way of knowing what we are doing. That is the reason, sir, in the agricultural wage schedule this committee stopped at \$1.30 because we honestly could not really and sincerely go beyond 2 years of coverage because we do not know for sure what it is going to do.

We asked the Members of the House to believe we are trying to work in a reasonable fashion. We covered your folks out in your area. They talked to us. They came in to see us. There is not one single coverage in this bill that has not been discussed with the different people and we took suggestions from each of them to change the provisions of previously proposed legislation.

But, it is impossible with 435 Members of the Congress, with each one of us wanting to play on the team and all of us wanting to be the pitcher. No one here wants to shag a fly and say, well, now, I cannot get everything I want for my district. There are 435 districts—each one different—and it is difficult to write a piece of legislation that covers all of the districts and yet give each and every one a complete exemption.

If you do that—if you take out the sheep and cattle ranch people—you will be taking out the largest ranchers in the country.

Mr. BERRY. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman.

Mr. BERRY. How can you tell how many hours these people work? How can anyone determine the hours that these people put in?

Mr. DENT. You really do not have to worry about that. There are no overtime provisions. It is a question of man-days. The law itself is based on man-days and in all the correspondence that we have here and we have a great volume of correspondence here, each and every one of them says it is the fairest method.

Mr. BERRY. How are you going to figure out how much an hour a man is getting if you do not know how many hours he works?

Mr. DENT. I will tell you this. If that farmer or that rancher is smart enough to employ people for 500 man-days a quarter and he does not know how to figure out how to pay his people, he needs some supervision. I am trying to be intelligent about it.

Mr. BERRY. And I will tell the gentleman something—all the rancher is interested in—and he is paying more than the minimum wage now—

Mr. DENT. Then why are you objecting?

Mr. BERRY. All the rancher is interested in is that he just does not want some Federal bureaucrat breathing down his neck and checking his books and going through all of these things every 3 months.

Mr. DENT. I would only say this to my colleague. If that is the only basis and the only argument for your amendments, I would point out to you that there is nobody in the United States who welcomes Government snoopers breath-

ing down their back. I am against the income tax. Do you want to repeal the income tax laws because someone is snooping all the time? If that is the only objection to the bill—and the bill does not work any hardship on anybody—and the gentleman points out that these people are paying more than the minimum wage—and it does not affect the ranchers so far as that is concerned, but the ranchers do not want to have snoopers, then I would say that is not a sufficient argument.

Mr. POAGE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, it had not been my intention to involve myself in this discussion, but I do feel we must clarify some of the questions of fact which are involved here.

I assume that the amendment offered by the gentleman from South Dakota is actually offered in the form which it takes because there is a problem which more generally confronts livestock growers than it does what are called "row crop" farmers, more often than not, at least in the area with which I am acquainted and I assume in other areas.

There are a great many people who own livestock operations and who employ one—sometimes more than one, but oftentimes only one—employee who will work on the farm or ranch, live in the house, receive all of his utilities and probably transportation in addition as part of his wages. I discussed this question with the chairman of the subcommittee and he was very courteous. I raise it now, not by way of criticism, but solely that we may have a clear-cut understanding of it in the RECORD.

To me it seems clear that if a man is working on a farm or ranch—and it is ordinarily a livestock operation—by the month, and people do not work ordinarily under those circumstances by the hour—at least they do not understand it by the hour—that man is there to do everything and anything which may come up on that place, and if he is required to go out at midnight, he goes out at midnight. If he takes his family to town one day, that is not counted against him. He is in many respects his own boss, but both he and his employer recognize that he is employed to do any work which is needed and at any time it is needed.

I think that under the decisions of the Labor Board that were he working in industry that they would hold he was working 24 hours a day because he is available to work 24 hours a day. I think they have held that way in cases of industrial employment. I see no reason to assume that there would be a different rule under the proposed legislation. I understand the chairman of the subcommittee disagrees with me on that point. Is that correct?

Mr. DENT. Yes, I do.

Mr. POAGE. Just for the record—and I want to get your feeling, not mine—you feel, as I understand it, that the employer and employee would have the right to make any agreement they wanted to, so that a man such as I have described could be considered as working only 8 hours a day, if that is all the

time he actually averaged putting in in physical labor?

Mr. DENT. Since there is no time-and-a-half requirement in the bill and no overtime criteria in the legislation, the question gets down to whether or not a monthly payment, with the fringe benefits that are usually granted in conditions where the employees work by the month, the Department of Labor must establish some sort of a ruling other than to take the purely hourly rate, when the whole computation is on a day-rate basis. They will have to establish that a day is considered to be so many hours.

As you know, the Department of Agriculture, in the Sugar Act, has decreed that a farm day is considered to be 12 hours. The Sugar Act works on a 12-hour base and has for many years, as the gentleman knows. I do not know what they will determine, but that has to be determined.

Mr. POAGE. This man working in livestock operations is actually on the job 24 hours a day and he is subject to work any one of those 24 hours. I think under the decisions we have in the industrial field they would hold that this man is an employee for 24 hours. That immediately brings this operation under the terms of the bill, because that is more than 500 man-hours.

Mr. DENT. This is not hours.

Mr. POAGE. What is it?

Mr. DENT. That has nothing to do with it.

Mr. POAGE. It has nothing to do with the wage. I am not talking about that, but I want to see if the employment of one man who has a constant responsibility would bring his employer under the bill. I think that there is a strong probability that it would. You think that it would not.

Mr. DENT. It has nothing to do with the coverage. It is 500 man-days. If he worked 24 hours a day, it would be 1 day.

Mr. POAGE. I think they would clearly hold that his 24-hour day was 3 man-days. I do not think there is the slightest doubt about that, and that figures out about twice 500 man-hours per year even if it is not necessary to employ any other help all year, and that is a most unlikely assumption.

Mr. DENT. All I can say to you is that I do not believe the Labor Department or any court in the land would determine that a man was working 21 days a week. They can't do that.

Mr. POAGE. I think it is clear they have done it in the past, and I think it is clear that they would do it in this instance. Under those circumstances it would mean that anyone who employed a shepherd would be subject to the terms of the bill, and I think we must recognize that danger.

Mr. DENT. He will not be subject to the bill.

Mr. POAGE. I can only hope that the Chairman is correct. Anyway let the record show that the Chairman interpretes his own bill as presenting no obstacle to the continuation of the existing practice of employment by the month with the understanding that the employee may be required to work 24 hours at a time.

I fear, however, that even this does not explain how the employer will fill out those record to which the Chairman has just referred. Clearly, the employer could not know just when the employee was working and when he was sleeping, yet it seems equally clear that this bill would impose such a responsibility—I must conclude that regardless of the Chairman's unquestioned good faith, that the proponents of this bill simply have no concept of the practicalities of farming, and that they do not know what the effect of their bill will be.

Mr. SISK. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from California is recognized for 5 minutes.

Mr. SISK. Mr. Chairman, I would like to have the attention of the chairman of the subcommittee.

I believe it is rather important to establish some interpretation here of what we are talking about. I well appreciate the problem that has been brought to the attention of the House by my colleague from Texas.

I happen to have a substantial stock industry. I happen to have a very large sheep industry.

I might say that as late as yesterday I discussed this subject with my wool growers. We are employing a substantial number, I might say—and a great many of you probably know we have to bring them in, because we have to do that in order to get experienced people.

I have assured them they will not be adversely affected by this legislation. But I want to make certain that it is not the intention of the committee that the fact that a shepherd, who goes out on the range and literally for weeks and months lives with a herd of sheep, is going to be interpreted as working 24 hours a day and has to receive whatever the minimum wage is for each hour of that 24 hours.

Is there any such intention whatsoever in the mind of the committee?

Mr. DENT. There is no such intention. I would stake my reputation as a Philadelphia lawyer that there will be no such ruling.

Mr. SISK. I supported the position of the committee in opposition to the amendment which was offered. But this would be of serious consequence. I think my colleague from Texas and I ought to have some understanding of what we are talking about, because this is a very important subject. We are paying now, for example, \$240 and found—and I assume the gentleman knows what we mean by "found."

Mr. DENT. I surely do.

Mr. SISK. We pay a man \$240 a month and sometimes more, and we furnish him all his food and lodging and practically all his clothing, and everything he has.

Mr. DENT. That is found. Found is found, and counted.

Mr. SISK. If there is any reasonable interpretation of the hours in a day, it would seem we pay the minimum wage.

Mr. DENT. It is my interpretation, the interpretation I have put on this, that it would not be counted a 24-hour day. A day on the farm is the customary work day on the farm as such.

However, before we vote finally on the bill I will try my best to obtain a statement in this respect from the department that has to administer it. I think that is the only way to get at it.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Texas.

Mr. POAGE. Mr. Chairman, I think the subcommittee chairman is doing a pretty fair thing. I appreciate it.

I want to ask the gentleman from California, if that interpretation is correct, how he will keep these records he referred to, because the chairman pointed out one of the records that must be kept is the exact hours the man worked.

How in the world is the sheep owner, who lives in Fresno, going to know the hours that man has worked up on the side of the mountain? How is he going to fill in that blank and turn it in?

Mr. SISK. If the chairman of the committee desires to answer it, I will yield to him. I think I have an answer, but I will be glad to yield to him.

Mr. DENT. Mr. Chairman, there is not a mandatory carrying of the records on all of the four lines. If we will look at the language, it simply says that, for the overwhelming majority of employers this is the only information with respect to employees which will be preserved. When we have a man on a monthly payroll, we do not have to keep the hours.

(Mr. SISK asked and was given permission to revise and extend his remarks.)

The CHAIRMAN. The question is on the amendments offered by the gentleman from South Dakota [Mr. BERRY].

The amendments were rejected.

AMENDMENTS OFFERED BY MR. GUBSER

Mr. GUBSER. Mr. Chairman, I offer an amendment.

Mr. Chairman, I have another amendment at the desk. It goes to another portion of the bill.

I ask unanimous consent that the two amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. DENT. Mr. Chairman, I did not hear the unanimous-consent request.

The CHAIRMAN. The gentleman from California requests that the two amendments be considered en bloc. One amendment goes to another portion of the bill.

Mr. DENT. I thank the Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. GUBSER: On page 34, strike out line 25 and all that follows down through and including line 14 on page 35.

On page 37, strike out lines 8 through 14, inclusive, and insert in lieu thereof the following:

"(6) any employee employed in agriculture if such employee is the parent, spouse, child, or other member of his employer's immediate family; or"

(Mr. GUBSER asked and was given permission to revise and extend his remarks.)

Mr. GUBSER. Mr. Chairman, I opposed the amendments of the gentleman from Nebraska, which would have stricken agriculture from this bill. If I read the legislative barometer correctly, I believe we can now predict that in a very short period of time there will be a minimum wage for agricultural labor. This is a step forward but too small a step.

The bill does not go far enough, so I am offering this amendment which would strike out the exemption for those who use less than 500 man-days of agricultural labor in any one quarter. In other words, it would apply to almost every farmer except those who hire members of their own family.

In defeating the Martin amendment to exempt all agriculture we have established the principle of an agricultural minimum wage. Now the question is, What kind of a minimum wage? I hope in this bill, we will not create one which will be discriminatory.

This bill as presently written discriminates against the employees who work on various sized farms who do exactly the same kind of work. One man can be doing a job on one side of the road and be covered. Another man with the same sized family to feed could be doing the same kind of work on the other side of the road and not be covered.

Furthermore, this bill would widen the competitive gap which already exists between California farmers and the farmers with whom they compete in the rest of the Nation.

The gentleman from Pennsylvania stated that 61 percent of farmworkers would not be covered.

The gentleman from Iowa stated that 600,000 would not be covered. I suggest that these 600,000 persons are being discriminated against.

California agriculture by its very nature is different. We irrigate, and most other States do not. This causes extra work. It means that ground must be worked and reworked between irrigations. We raise deciduous fruits, so we must prune and spray in the dormant season. We have all sorts of operations which other States do not have in the production of the same commodities. This means we use more labor per acre than other States.

We in California are paying the highest agricultural wage rates, with the exception of Hawaii, in the entire Nation. Yet our State is the target today of those who say we are not paying enough. We feel that if we are a target when we are exceeding the minimum wage and leading other areas, it is wrong to exempt 600,000 workers who work for our competitors across the Nation and not force our competitors to at least part of the way up to the level of wages which we in California are paying and will continue to pay.

This discrimination between workers is impractical. If one worker knows in the morning that the farm down the road is paying a nickel more, everybody in that county will know it by noon, and wages will go up. So the distinction is not necessary and therefore not practical.

It is inconsistent with the Sugar Act, which we have had for years and under which all farmers, both small and large, must pay a certain wage.

It has been said that 600,000 people do not constitute an impact on the labor market. I point out that there is an impact on 600,000 human beings who are discriminated against. Let us consider the impact upon people instead of the impact upon the labor market.

It has been said that this will hurt the small farmer. In California when you talk about seven employees versus six employees, you are not talking about the difference between a small and a large farm; you are talking about a small and a smaller farm, because they are all small if they employ as few as seven people.

The trend today is toward larger farm units and fewer small farms. This is due to the tremendously inflated cost of equipment and the necessity for spreading increased overhead over a larger volume.

This trend has persisted even without a minimum wage and I predict that it will continue with or without an agricultural minimum wage.

So the real underlying question is: "In passing this bill, do we intend to subsidize small farms and help them to resist a natural and inevitable economic trend?"

If this is our purpose, then I suggest that we achieve it properly by asking the Committee on Agriculture to consider a program of small farm price supports and subsidies.

It is wrong to ask the farm worker who is currently on the bottom rung of the economic ladder to bear the entire brunt of this subsidy.

It is wrong to ask the California farmer, who is already pressed by unequal competitive factors, to accept increased disparity by legalizing some farm workers to work at lower wages in order to subsidize small farms.

I came from a small farm and I regret seeing this great American institution gradually disappear. I might even be willing to support a program to help it survive, but I cannot support it by licensing discrimination between working men who do exactly the same job.

I don't think any of you should favor such discrimination.

Therefore, I urge you to remove the 500-man-day-per-quarter criteria for coverage of agricultural labor.

I urge you to eliminate discrimination against some workers and against some farmers.

I urge that if we have a minimum wage for agriculture we have it for all farmers, all States and all workers.

I urge your support of my amendment. Mr. MEEDS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, if I understand the amendment of the gentleman from California [Mr. GUBSER] correctly, the effect of it would be to include almost every farm in the United States. Every farm that employs one person other than the immediate members of the family would be included if this amendment is adopted. This may be a very fine goal in the future, but I do not think, Mr.

Chairman, the time has arrived when we can do this. The 500-man-day test in the agriculture section is to that section what the enterprise test is to the retail trade section. So when we eliminate the 500-man-day test from the agricultural section, it is just like cutting out the enterprise test in the other sections which the gentlemen on the other side of the aisle have seen fit to raise. So it seems to me if we are going to be consistent, we are going to furnish to the small farmer, the family farmer I may add, the same type of protection for his smallness that we are providing to the small businessman with the enterprise test. This I submit also would bring to the small farmer, as the gentleman from Virginia mentioned earlier, problems of bookkeeping which the individual family farmer is not prepared to assume.

Mr. Chairman, I submit that the gentleman from California states that the small farmer is going out of business, anyhow. This amendment would work toward putting him out in a real hurry.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the chairman of the subcommittee.

Mr. DENT. I would ask you to oppose this amendment, because the committee did try to do that which was just and proper and fair. We tried to limit coverage to those farms we believed were in a corporate type of entity. We did not believe covering all farms in America would be fair to the farmer or fair to the economy of the Nation any more than we ever believed in covering the mama-and-papa store of a retail association.

Mr. HAGEN of California. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman and members of the Committee, I am going to vote for the amendment of the gentleman from California. I would like to say I think it is a fiction to assume in any area where you have any substantial number of large farms that are covered by this bill that you are not going to raise wages for every farmer in the area, because there are shortages of farm labor almost everywhere in the United States now and all of these farmers are competing for the same labor. They will compete in terms of wages if this bill is passed.

I would like to ask the chairman of the subcommittee some questions if I might. No. 1, in applying this law would it be possible to calculate the compliance with the minimums established for farm work on the basis of piece rates which result in an average for all his employees, equal or above the minimum, or must there be a flat dollar minimum for every single employee regardless of his individual productivity working on a piece rate basis.

Mr. DENT. Yes.

Mr. HAGEN of California. This method of compliance would be valid under this bill?

Mr. DENT. Yes. If there is a piece rate, it meets the minimum. It is a measure of earnings. A piece rate is used in industry today, and I would assume it would be used in the agricultural field the same as it is used in industry.

Mr. HAGEN of California. And, therefore, if the farmer uses a piece rate method of pay, if his rate were high enough for the average of his employees he would not be out of compliance because a few workers failed to earn the dollar minimum?

Mr. DENT. Mr. Chairman, if the gentleman will yield further, those people who are piece rate workers in most instances are going to be exempt under the Green amendment which will be offered very shortly.

Mr. HAGEN of California. The gentleman says that there will be an amendment offered to permit a pure piece rate as a method of compliance.

Mr. DENT. If the gentleman will yield further, it is an amendment that is designed to clarify the counting and the coverage.

Mr. O'HARA of Michigan. Mr. Chairman, will the gentleman yield?

Mr. HAGEN of California. Not at the moment. I shall be glad to yield to the gentleman later.

I want to ask some questions about this agricultural coverage formula and who is covered, the present description of coverage is rather poor, to be sincere about it.

How is the farmer to determine in counting his man-days whether or not a particular worker has worked less than 13 weeks during the preceding calendar year? How can he accurately determine that?

Mr. DENT. When you ask him.

Mr. HAGEN of California. Suppose he furnishes an incorrect answer?

Mr. DENT. If the gentleman will yield further, it will have to be the same answer as is given when you have to determine the age of a person who is buying a drink of liquor in a liquor store. You can only ask him.

Mr. HAGEN of California. Why put these qualifications in there—this commuting item and this 13-week requirement?

Mr. DENT. Mr. Chairman, if the gentleman will yield further, in order to cover the migrant who is, in fact, a farmworker. We tried to distinguish between a farmworker, one who earns a livelihood at farming, and the local farmworker who comes out during the harvest season, where the worker and his family go out in the harvest season and harvest cherries, strawberries and blackberries, and other cover crops or ground crops. We do not want to cover them as farmworkers, when they are not in the farmworkers classification, because they are only temporary.

Mr. HAGEN of California. I would like to point out to the gentleman from Pennsylvania that I do not know what the situation is in other States, but labor has settled down in California. A large number of the farmworkers who do harvest, for example, fruits and vegetables, live in the area, and they, in fact, commute to work from their homes.

As I understand it, under the gentleman's definition, their work activities would not be included in this computation of man-days?

Mr. DENT. Not if they work less than 13 weeks in the year. They would

travel back and forth to their homes and they would pick another crop.

We have made the provision as tight as we can.

Mr. HAGEN of California. I am not going to try to change your formula with an amendment, but I believe a much fairer criterion would be a criterion of gross income, such as you have with reference to retail establishments, for example.

Mr. DENT. Mr. Chairman, if the gentleman will yield further, that was gone into very, very thoroughly by the committee, and it just was not possible to get any kind of agreement. For example, a farmer may have in 1 year a very fine, prized bull. You just do not get one of those every year, and he might be covered because he had that prized bull. We did not want this bill to be based upon bulls.

Mr. HAGEN of California. Let us assume that the only quarter in the year that he employed 500 man-days of farm labor was the last quarter. What is his situation the next year?

Mr. DENT. He is covered the next year.

Mr. HAGEN of California. Even though this is a new year?

Mr. DENT. That is right. If he does not reach 500 man-days that year, then he is uncovered the next year. That is the only formula about which we know.

Mr. HAGEN of California. He is uncovered the next year?

I would respectfully submit that this formula should be changed when the bill reaches the other body in some fashion. Serious questions remain; for example, assume that the first affecting year of the act coverage is based on the first quarter's employment—does that record establish a requirement for the balance of that calendar year or only for the succeeding year?

Mr. GLENN ANDREWS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will say to my colleagues that I have listened to the debate yesterday afternoon and today on this bill. I have listened attentively, I think, and I have found expressed by the various Members of this body two distinct purposes behind this legislation.

I, myself, am inclined to believe that both of these factors are involved in the legislation.

But I would like to make it very clear, if I possibly could, particularly to the gentleman from California whether or not the closing of the competitive gap between California agriculture and other agriculture in the United States is their purpose in this legislation? Or whether we ought to believe, with the gentleman from Oregon and the gentleman from Hawaii, that the purpose of this legislation is to establish decent wages for the lower paid in America.

May I ask the gentleman from California who just spoke if he can tell me whether or not the chief purpose of the bill so far as the California people are concerned is to close the competitive gap—where California enjoys a good climate and great soil and abundant labor—whether their purpose in this bill

so far as Californians are concerned is to close the competitive gap or to gain a decent wage for the farm employees of America.

The gentleman from California is not answering that question. Then may I ask the gentlewoman from Oregon what she thinks the chief purpose of this bill is?

Mrs. GREEN of Oregon. The chief purpose of the legislation is to try to establish a minimum floor which would provide a decent living standard for as many Americans as we possibly can at this time in this country. If I had my way, I would like to provide such a decent living standard for every single American in the United States who wants a job, could find that job, and devote his time and energies to it. However, I realize political problems are involved.

I think it is politically and economically unwise and impossible as of today, May 25, 1966, to extend the minimum wage to every family-size farm as well as the corporate farms.

Mr. GLENN ANDREWS. I would say to the gentlewoman, I rose in opposition to this amendment. If it is her purpose as I understand the gentlewoman to gain a decent living for all the farmers in the United States, does she not recognize that there is a difference in living costs which exists and has been established throughout the United States.

The gentlewoman has traveled widely. She knows what the cost of living is in Mississippi as compared with Oregon, New York, and Chicago. Would she not recognize that there is a vast difference in the cost of living and therefore of necessity a difference in wages—while she would have a uniform minimum wage throughout the Nation.

Mrs. GREEN of Oregon. I would apply a floor. And above that floor the wages could go to any particular amount that would be appropriate in that particular community or that particular area of the country.

Mr. GLENN ANDREWS. The floor would affect only those who are below that standard minimum and States like California and New York would have utterly nothing to do with this bill at all; is that correct? Are there not pockets of low income in every State where food costs and laundry costs and so on and so forth vary within the State tremendously—for example, as between New York City and the hinterlands of the State of New York would there not be different living costs where the minimum wage or a uniform wage throughout the Nation would apply in one case and not in another—or would apply unfairly in one case and not unfairly in another case?

Mrs. GREEN of Oregon. I have tried to explain my position on this. I favor establishing a minimum floor. There are differences in the actual living costs and in many States wages are above the floor.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California [Mr. GUBSER].

The amendments were rejected.

Mr. DENT. Mr. Chairman, I ask unanimous consent that the remainder

of the bill be read by title and be open for amendment and that each title be open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MARTIN of Nebraska. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MARTIN of Nebraska. I have an amendment to title I and I understand that we are still considering title I.

The CHAIRMAN. The gentleman is correct. We are still on title I.

Mr. COLLIER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COLLIER. Do I understand correctly that the unanimous-consent request of the gentleman from Pennsylvania is not put into effect until we have completed title I?

The CHAIRMAN. That is correct.

Then the remainder of the bill will be considered by title.

AMENDMENT OFFERED BY MR. MARTIN OF NEBRASKA

Mr. MARTIN of Nebraska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MARTIN of Nebraska: On page 35, between lines 14 and 15, insert the following:

"DEFINITION OF WAGES

"Sec. 103. Sec. 3(m) of the Act is amended by inserting immediately before the first proviso and after the word 'employees', the following language, 'Provided, That such cost shall be determined in each State, subject to the approval of the Secretary of Labor, by the appropriate State agency or officer, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law', and inserting the word 'further' after the word 'Provided' in such first proviso."

Mr. MARTIN of Nebraska. Mr. Chairman, I would like to have the attention of the chairman of the subcommittee.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Nebraska. I am glad to yield to the gentleman from California.

Mr. BURTON of California. As I understand the gentleman's proposal, it would permit each of the 50 Governors to decide what constituted a wage in the area of farm labor.

Mr. MARTIN of Nebraska. No. That is not the point of the amendment at all.

Mr. BURTON of California. That is what the amendment appears to say to me.

Mr. MARTIN of Nebraska. That is not correct. I have discussed the amendment with the subcommittee chairman. In fact, we discussed it in the Rules Committee. Let me explain it for a moment.

First, the amendment provides that the value of any meals, food, and housing furnished to an employee would be determined by the appropriate officer within a State government—for example, the secretary of labor, the secretary of agriculture, or, if there is not any, the appropriate officer to be ap-

pointed by the Governor—who would make the determination as to the value of such food and housing furnished.

The determination made would still be subject to the final approval of the Secretary of Labor here in Washington.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield further?

Mr. MARTIN of Nebraska. I yield to the gentleman from California.

Mr. BURTON of California. As I understand it, your amendment would amend the wage section of the bill. You would permit the Governor in each of the States to assign a value to certain incidents of employment that would affect to what extent cash wages would be paid under the minimum wage bill. Is that correct?

Mr. MARTIN of Nebraska. No; that is not correct.

I yield to the subcommittee chairman.

Mr. DENT. Mr. Chairman, the gentleman from Nebraska has taken up his amendment with me many times. All he is asking is that because we are now covering restaurants, we hope, and farmers, we hope, there are areas in which allowances are made for services and fringe benefits that are given to the employees, such as meals, uniforms, housing, and so forth.

Each State that has a minimum wage bill covering those particular areas of coverage has an allowance that they permit, and each State varies in the allowance they permit.

For example, in my State \$3 a day is allowed for workers employed in resort hotels that get room, board, and other fringe benefits.

As I understand the amendment, it would allow the Secretary of Labor to accept the State allowances established by the State secretary of labor or wage and hour board, and if the Secretary does not approve those allowances, then he would not accept them. I believe that the amendment is all right.

Mr. MARTIN of Nebraska. That is correct. I have exactly the same interpretation as the subcommittee chairman.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield at this point?

Mr. MARTIN of Nebraska. I am happy to yield to the gentleman.

Mr. BURTON of California. As I understand it, Mr. Chairman, the Secretary must find that the value assigned to these incidents of employment is fair, just, and equitable to the employees. Is that the gentleman's understanding?

Mr. MARTIN of Nebraska. There is nothing in there as to whether it is fair or equitable to the employee or the employer. All my amendment does is simply bring it down to the State level to make the original determination as to what the value of room and board is which is furnished to the employees. But that determination at the State level is still subject to the approval of the Secretary of Labor in Washington. I am trying to bring it down to the State level.

Mr. BURTON of California. Will the gentleman yield further?

Is it the gentleman's intention that this will be applicable only in States that have a statutory minimum wage?

Mr. MARTIN of Nebraska. That is not correct. Would the gentleman like to have me read my amendment again? This is an amendment to the act itself.

Mr. BURTON of California. I understand what the amendment does. I am trying to clarify the gentleman's intention.

Mr. MARTIN of Nebraska. My intention, as I have stated twice now, is simply to make the original determination on the value of any room and board furnished an employee at the State level, subject to the approval of the Secretary of Labor.

Mr. BURTON of California. As I understand, it is not the intention of the gentleman, at least as I have understood the debate, to expand on that which is currently defined as wages in the act, but it is to the extent that the definition is amended in this pending bill?

Mr. MARTIN of Nebraska. It has nothing to do with the wage rate or the minimum wage, either at the State or Federal level.

Mr. POWELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the distinguished gentleman from Nebraska mentioned that this applies to the 50 States. Will the gentleman's amendment exclude Puerto Rico?

Mr. MARTIN of Nebraska. The act will read, with this amendment included:

(m) "Wage" paid to any employee includes the reasonable cost, as determined by the Secretary of Labor,¹⁰ to the employer of furnishing such employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by such employer to his employees—

This is where my amendment starts:

"Provided, that such cost shall be determined in each state, subject to the approval of the Secretary of Labor, by the appropriate state agency or officer, or if there is no such officer or agency, an officer or agency designated by the Governor or by state law".

Perhaps that does not include Puerto Rico.

Mr. POLANCO-ABREU. Mr. Chairman, will the gentleman yield?

Mr. POWELL. I yield to the distinguished Resident Commissioner from Puerto Rico [Mr. POLANCO-ABREU].

Mr. POLANCO-ABREU. Mr. Chairman, will the distinguished gentleman from Nebraska accept an amendment? Will the gentleman accept an amendment after the word "State" in his amendment, to insert "and the Commonwealth of Puerto Rico"?

Mr. MARTIN of Nebraska. I will be happy to accept that amendment; yes.

Mr. BURTON of California. Mr. Chairman, I move to strike the requisite number of words.

I am not going to belabor this. The chairman of the full committee has indicated his view on the matter. The gentleman who has offered the amendment has represented it as not his intention to affect or expand on the definition of "wages." That is of some comfort.

However, we are permitting 50 different States' yardsticks to be applied to weighing and measuring the value of

room and board. I think this is not wise.

The Secretary of Labor would be deprived of his authority as it currently exists to assign a value in this regard, and put in an appellate position.

I believe the gentleman's suggestion is ill advised. I believe it will mean having 50 different interpretations of the value of room and board. It could well frustrate the purpose of the legislature.

I am personally opposed to its adoption.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. BURTON of California. I yield to the gentleman from Illinois.

Mr. PUCINSKI. Would the gentleman from Nebraska clarify one point? Is the gentleman suggesting that the State is going to determine the value of these services in the case of farmworkers only, or across the board on everything, restaurants and everything else?

Mr. MARTIN of Nebraska. This would cover any area where room or room and board are furnished.

Mr. PUCINSKI. For whom?

Mr. MARTIN of Nebraska. For employees. It would cover employees on farms. It would cover employees in restaurants and hotels.

Mr. PUCINSKI. Then what the gentleman really is saying is that a Governor or a secretary of state, or a secretary of labor, or a commissioner of labor, or a director of labor—whatever he might be—could actually manipulate for each State a different value and a different standard merely by manipulating the value of lodging, clothing, and food?

Mr. MARTIN of Nebraska. That is not correct; because the determination made at the State level still would be subject to the approval of the Secretary of Labor in Washington, D.C.

I should like to make one other point, if the gentleman will yield further.

In regard to the question by the chairman of the committee [Mr. POWELL] about Puerto Rico, I should like to quote from paragraph (c) of the act as to the definition of a State. I have used the word "State" in my amendment.

"State" means any State of the United States or the District of Columbia or any Territory or Possession of the United States.

I believe that Puerto Rico would be covered by my amendment.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield further?

Mr. BURTON of California. I should like to pursue this matter.

Is it the gentleman's position that if the Secretary decides the value assigned to room and board is not fair and equitable to the employee, the Secretary would have the authority to assign a value to the room and board?

Mr. MARTIN of Nebraska. That is correct; because the Secretary of Labor would make the final determination here in Washington, D.C.

Mr. BURTON of California. So it is the very clear and explicit intent, without regard to the language of the amendment, that the Secretary, if he decides the assignment of value to room and board is not fair and equitable to the

employee, may assign the value on his own motion?

Mr. MARTIN of Nebraska. That is correct. All my amendment would do is allow the original determination to be made at the State level.

Mrs. MINK. Mr. Chairman, I rise in opposition to the amendment and move to strike the requisite number of words.

I should like to join my colleagues on my committee and object to the amendment suggested by my colleague from Nebraska.

I point out that the language in section 3 with reference to wages permits the Secretary of Labor to make the determination of value with respect to board, lodging, and other services which might be rendered the employees. I believe it is entirely fitting and proper, that the responsibility be lodged in the Secretary of Labor, since this is Federal legislation establishing a minimum wage. Whatever policies are determined by the Secretary of Labor ought to be uniform, consistent with rules and regulations which are adopted by the Secretary, operative in all the 50 States.

If the purpose of the amendment is to permit the State agencies some opportunity to inform and advise the Secretary of Labor, I should like to point to the language in section 11(b) of the act as it exists today, which gives the Secretary of Labor the responsibility of consulting with the State agencies charged with the administration of State labor laws.

In consulting with these State departments they can arrive at the responsibilities which the Secretary of Labor is charged with under this act. I think the purposes of the bill are well met by the present language of the bill. Therefore, I ask the Members of this House to vote down the amendment as not being necessary and as one which would really thwart the purposes of a Federal minimum wage law which is to establish uniform rules and regulations for the meeting of all the conditions with reference to wages and overtime that are provided in this bill.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mrs. MINK. I yield to my colleague from Illinois.

Mr. PUCINSKI. I would like to commend the gentlewoman for her observations. I cannot think of any faster way to destroy the whole concept of this minimum wage standard than by letting this amendment go through, because, as we have seen here earlier, what you would do then is let each State set its own standards. You can really negate the basic standard of the minimum wage by doing this. I think it will be giving certain States greater advantages at the expense of other States. I cannot think of any amendment which was presented here today that would do a greater injustice to this whole concept of fair labor standards.

Therefore, Mr. Chairman, I hope this amendment is rejected.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mrs. MINK. I yield to the gentleman from California.

Mr. BURTON of California. I, too, would like to commend the gentlewoman for pointing out that the current law already gives to the Secretary of Labor the authority to assign a value to room and board and this proposal at best is superfluous, and at worst could confront us with the dilemma of an administration of 50 different kinds of yardsticks in the various States of the nation. We are enacting a national minimum wage here, and the national Secretary of Labor has authority in this area. The fragmentation of this authority into 50 pieces is most unnecessary at best.

Mr. DENT. Mr. Chairman, I rise to see if I can clarify a little of the atmosphere here and clear it up. When the gentleman talked to me, I believe we were discussing the question of who would establish and how could they establish the value of the home provided for a farmhand—power, beef, food from the gardens, or whatever he gives them—and the question of the allowance for meals and uniforms and other things now covered by the act.

I did not contemplate that we would go into an all-inclusive thing. I was ready then and I am now personally ready to accept an amendment which is restricted to the coverage of the new areas of restaurants and farms, because under the old act they have already established procedures which are in effect. So let us not redo them.

My question to those who are afraid that this fragmentation will be to the detriment of the work is, remember that if they do not establish it on a State-by-State basis and you have a Secretary of Labor who might establish a meal value for the city of New York in the State of Kansas or Alabama or Virginia, then you will find that your employee will not get a minimum wage but he will get a meal a day. I think I know a little bit about what I think is best for the worker.

If the Secretary of Labor feels a State has established a value entirely out of proportion to the amount of money being paid to the worker, he can reject it, but if he had the responsibility of setting it up, he will find he must go beyond those in high-cost States trying to take out of the wage earner's pocket a higher cost for the fringe benefits he is getting than what are actually the values.

If it is a low-wage area, the value of a meal will be less than it is in a high-wage area. You will find it to be true. In some counties of some States, for instance, they are different than in other counties. A State may set it up in the city of Pittsburgh, as it does, differently from the county of Westmoreland. If the Secretary of Labor is going to go into the 8,700 counties in the West, he will find himself in an awful situation.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from California.

Mr. BURTON of California. Mr. Chairman, I would like to commend the distinguished chairman of the subcommittee, because the gentleman has pinpointed the problem inherent in this proposal.

I am pleased to hear that the gentleman from Pennsylvania is going to reject and oppose the amendment, because this amendment covers all, not just the newly covered.

Mr. DENT. I would ask the gentleman from Nebraska [Mr. MARTIN] whether or not when he discussed it with me, at any time we discussed it, it was for other than the newly covered people in the restaurants and on farms. In fact, we were discussing farms when we talked about it.

I will be happy to accept it too, but I cannot take away from the Secretary established authority which he already has.

Mr. MARTIN of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Nebraska.

Mr. MARTIN of Nebraska. If we added these words, "provided that such cost with respect to employees employed in agriculture, restaurants, hotels and motels—

All of these are newly covered employees—and then go on to the wording, would that be acceptable to the gentleman from Pennsylvania?

Mr. DENT. I do not see anything wrong with the wording that the Secretary may accept or reject the State allowance, the allowance allowed by the State government, because if you do not have that, then, of course, you have no protection against the State government, which might want to establish false rates. I would accept it if it were properly worded.

Mr. PUCINSKI. Mr. Chairman, I move to strike the requisite number of words.

(Mr. PUCINSKI asked and was given permission to revise and extend his remarks.)

Mr. PUCINSKI. Mr. Chairman, this discussion, I believe, should include the fact that in the bill now we do have the machinery and we do have the provisions for doing what the gentleman from Nebraska suggests and it is in the bill to the effect that the Secretary of Labor and the U.S. Department of Labor may make the determination based upon the following language:

Provided further, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such valuations, where applicable and pertinent, shall be used in lieu of actual value of cost in determining the wage paid any employee.

Mr. Chairman, I just cannot see how this formula, which has worked so well, could be improved upon. We have had no complaints about it. No State has testified in support of any other formula. There has been no criticism of this formula.

I do not know what purpose this Congress is going to serve in trying to revise that formula now and bring in 50 different standards all across America and Puerto Rico.

I say to the members of the Committee that if this is done, we are going to create more problems with that kind of formula than we will solve.

The Secretary of Labor has the experience. There has been no complaint. There has been no testimony in support of this, and I believe at this moment that to rewrite this basic original law is to do what we have previously done when we see what we have done later, it was a mistake.

Mr. Chairman, I feel that we should reject the amendment and stay with the law as it is now spelled out, on which we have had a great deal of experience and expertise and past history.

Mr. MARTIN of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from Nebraska.

Mr. MARTIN of Nebraska. We have actually had very little experience in the labor field with reference to making a determination in respect to board, lodging, or other facilities, because there has been very little coverage in this area.

The gentleman from Illinois is making a mountain out of a molehill on this amendment. All I am simply doing is trying to establish the value, of any room and board, at the State level which I believe, might be more realistic than one made in Washington.

I believe further that it will be of great assistance to the Secretary of Labor in Washington to get the advice of the people within the States themselves whom I believe are, perhaps, more conversant with local conditions and the value of housing and meals and so forth.

Mr. PUCINSKI. If we are going to follow the gentleman's logic, why not let the secretary of labor in each State set his own minimum wage standards? Why do you not let them do that and let us have 50 different standards for minimum wages. We are talking about labor and the Fair Labor Standards Act, and I feel when you bring in these extraneous issues, you will not be able to hold this together.

Mr. MARTIN of Nebraska. Mr. Chairman, I have a very simple amendment and the gentleman is making it very complicated. The chairman of the subcommittee has accepted the amendment and I hope the Committee of the Whole will approve it.

Mr. PUCINSKI. Mr. Chairman, I hope the amendment will be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska [Mr. MARTIN].

The amendment was rejected.

The CHAIRMAN. If there are no further amendments to title I, the Clerk will read.

Mr. POWELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. POWELL. Did not the chairman of the subcommittee obtain unanimous consent that each title be considered as read?

The CHAIRMAN. Without objection, the further reading of title II will be dispensed with.

There was no objection.

Title II is as follows:

TITLE II—REVISION OF EXEMPTIONS

Hotel, restaurant, and recreational establishments; hospitals and related institutions

SEC. 201. (a) Section 13(a)(2) of such Act is amended by striking out everything preceding "A 'retail or service establishment'" and inserting in lieu thereof the following:

"(2) any employee employed by any retail or service establishment (except an establishment or employee engaged in laundering, cleaning, or repairing clothing or fabrics or an establishment engaged in the operation of a hospital, institution, or school described in section 3(s)(4)), if more than 50 per centum of such establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, and such establishment is not in an enterprise described in section 3(s) or such establishment has an annual dollar volume of sales which is less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated)."

(b)(1) Section 13(b) of such Act is amended by inserting after paragraph (7) the following new paragraph in lieu of the paragraph repealed by section 211 of this Act:

"(8) any employee employed by an establishment which is a hotel, motel, or restaurant; or".

(2) Section 13(a) of such Act is amended by inserting after paragraph (2) the following new paragraph in lieu of the paragraph repealed by section 202 of this Act:

"(3) any employee employed by an establishment which is an amusement or recreational establishment, if (A) it does not operate for more than seven months in any calendar year, or (B) during the preceding calendar year, its average receipts for any six months of such year were not more than 33 1/3 per centum of its average receipts for the other six months of such year; or".

Laundry and cleaning establishments

SEC. 202. Section 13(a)(3) of such Act is repealed.

Agricultural employees

SEC. 203. (a) Section 13(a)(6) of such Act is amended to read as follows:

"(6) any employee employed in agriculture (A) if such employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred man-days of agricultural labor, or (B) if such employee is the parent, spouse, child, or other member of his employer's immediate family; or".

(b) Section 13(a)(16) of such Act (agricultural employees employed in livestock auctions) is repealed.

(c) Section 13(b) of such Act is amended—(A) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; or", and

(B) by adding at the end of paragraph (11) the following new paragraphs:

"(12) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a sharecrop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

"(13) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (A) is primarily employed during his workweek in agriculture by such farmer, and (B) is paid

for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a)(1); or".

Agricultural processing employees

SEC. 204. (a) Sections 13(a)(10) (employees engaged in handling and processing of agricultural, horticultural, and dairy products); 13(a)(17) (country elevator employees); 13(a)(18) (cotton ginning employees); and 13(a)(22) (fruit and vegetable transportation employees) of such Act are repealed.

(b) Section 13(b) of such Act is amended by adding after paragraph (13) (added by section 203(c) of this Act) the following new paragraphs:

"(14) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed in the establishment in such operations; or

"(15) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities; or

"(16) any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables; or"

(c) Subsection (c) of section 7 of such Act is amended to read as follows:

"(c) For a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection if such employee (1) is employed by such employer in an industry (other than an industry described in subsection (d)) found by the Secretary to be of a seasonal nature, and (2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment by such employer in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

"(d) For a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection, if such employee—

"(1) is employed by such employer in an enterprise which is in an industry found by the Secretary—

"(A) to be characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of agricultural or horticultural commodities from farms if such industry is engaged in the handling, packing, preparing, storing, first processing, or canning of any highly perishable agricultural or horticultural commodities in their raw or natural state, or

"(B) to be of a seasonal nature and engaged in the handling, packing, storing, preparing, first processing, or canning of any highly perishable agricultural or horticultural commodities in their raw or natural state, and

"(2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment in excess of forty-eight hours in any workweek, as the

case may be, at a rate not less than one and one-half times the regular rate at which he is employed."

(d)(1) Subsections (d), (e), (f), (g), and (h) of section 7 of such Act are redesignated as subsections (e), (f), (g), (h), and (i), respectively.

(2) Subsections (g) and (h) of such section 7 (as so redesignated by paragraph (1) of this subsection) are each amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

Small newspapers

SEC. 205. Section 13(a)(8) of such Act is amended by striking out "where printed and published" and inserting in lieu thereof "where published".

Transportation companies

SEC. 206. (a) Section 13(a)(9) of such Act is repealed.

(b)(1) Section 13(a)(12) of such Act is repealed.

(2) Section 13(b) of such Act is amended by adding after paragraph (16) (added by section 204(b) of this Act) the following new paragraph:

"(17) any driver employed by an employer engaged in the business of operating taxicabs; or"

(c) Section 13(b)(7) of such Act is amended to read as follows:

"(7) any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency; or"

Motion picture theater employees

SEC. 207. Section 13(a) of such Act is amended by inserting after paragraph (8) the following new paragraph in lieu of the paragraph repealed by section 206(a) of this Act:

"(9) any employee employed by an establishment which is a motion picture theater; or"

Logging crews

SEC. 208. Section 13(a)(15) of such Act is amended by striking out "twelve" and inserting in lieu thereof "eight".

Automobile, aircraft, and farm implement sales establishments

SEC. 209. (a) Section 13(a)(19) of such Act is repealed.

(b) Section 13(b) of such Act is amended by inserting after paragraph (9) the following new paragraph in lieu of the paragraph repealed by section 212 of this Act:

"(10) any salesman, mechanic, or partsman employed by an establishment which is primarily engaged in the business of selling automobiles, trucks, or farm implements to the ultimate purchaser, and any salesman, mechanic, or flight personnel employed by a nonmanufacturing establishment which is primarily engaged in selling aircraft; or"

Food service employees

SEC. 210. (a) Section 13(a)(20) of such Act is repealed.

(b) Section 13(b) of such Act is amended by adding after paragraph (17) (added by section 206(b)(2) of this Act) the following new paragraph:

"(18) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs."

Gasoline service stations

SEC. 211. Section 13(b)(8) of such Act is repealed.

Petroleum distribution employees

SEC. 212. (a) Section 13(b)(10) of such Act is repealed.

(b) Section 7(b)(3) of such Act is amended to read as follows:

"(3) by an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if—

"(A) the annual gross volume of sales of such enterprise is less than \$1,000,000 exclusive of excise taxes,

"(B) more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and

"(C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale, and such employee receives compensation for employment in excess of forty hours in any workweek at a rate not less than one and one-half times the minimum wage rate applicable to him under section 6."

Eniwetok and Kwajalein Atolls and Johnston Island

SEC. 213. Section 13(f) of such Act is amended by striking out "and the Canal Zone" and inserting in lieu thereof "Eniwetok Atoll; Kwajalein Atoll; Johnston Island; and the Canal Zone".

Technical and conforming amendments

SEC. 214. (a) Section 3(n) of such Act is amended by striking out ", except as used in subsection (s)(1),".

(b) Section 13(a) of such Act is amended—

(1) by redesignating paragraphs (11), (13), (14), (15), and (21) as paragraphs (10), (11), (12), (13), and (14), respectively, and

(2) by striking out "; or" at the end of paragraph (14) (as so redesignated in this subsection) and inserting in lieu thereof a period.

(c) Paragraph (7) of section 13(a) of such Act is amended by striking out "or order" and inserting in lieu thereof ", order, or certificate".

AMENDMENT OFFERED BY MRS. GREEN OF OREGON

Mrs. GREEN of Oregon. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. GREEN of Oregon: On page 37, line 12, strike out "or", and, in line 14, insert immediately before the semicolon the following: ", or (C) if such employee (i) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) commutes daily from his permanent residence to the farm on which he is so employed, and (iii) has been employed in agriculture less than thirteen weeks during the preceding calendar year".

Mrs. GREEN of Oregon. Mr. Chairman, this bill proposes to extend the minimum wage to cover the migrant workers, sharecroppers, and full-time farm employees. With this purpose I am in full and complete agreement.

These are the very ones in most urgent need of some protection; they have no organized voice, no strong lobby to plead their cause.

However, there is one part of the bill, it does seem to me, to which we need to direct our attention and it is to this point that my amendment is directed.

My amendment is designed to encourage part-time seasonal employment opportunities for our young people.

Mr. Chairman, summer employment for our young people is becoming more and more difficult to find.

The release from the White House in April of 1966 stated:

In 1966, 1,800,000 of our youth will look for work in the summer without finding it. Some of these youngsters will be looking for temporary summer jobs, and getting those jobs may be the difference between going back to school or not being able to return.

It seems to me that work of this nature in the summertime that is on a temporary basis, for less than 13 weeks, is good for young people, if there is no exploitation, and if the children are not engaged in hazardous occupations.

Many of us in this House have worked in the summertime, and I think if we were honest with ourselves we would admit that youngsters who are working in the harvest fields are not working all of the time. Their interest and their energies are not sustained for every single hour of the day. I do not think it is a fair requirement to say to the farmer, "You must pay these youngsters by the hour the same as you would the adult employees. By retaining the piece-rate basis of payment, an incentive is provided and the student can work to full capacity or part-time.

Last month the Secretary of Commerce wrote to employers of the great need to employ as many school-age children as industry can possibly employ. He stated this:

The President has again asked the Federal, State and local governments and private employers to join forces this summer in an investment program in the nation's youth. He is asking for a cooperative effort to provide work and training experiences this summer for as many as possible of almost one million boys and girls 16 to 21 years of age who will be looking for work with little hope of finding it."

Through the Neighborhood Youth Corps the Federal Government is financing with Federal funds jobs for this particular category of students.

So let us not promote jobs on the one hand with full Federal funds, and then at the same time pass legislation which might well eliminate the opportunity for many of these people to work.

This year the NYC is spending nationwide over \$209 million. My home State is spending over \$1 million. Yet with this bill unamended, it seems to me that we run the very grave risk of closing the door to fruitful work and employment for many of those for whom Federal funds are creating the opportunities in NYC.

Finally, may I say that this amendment will not affect any single person in the United States who works more than 13 weeks in the preceding year. It has been discussed by the committee. I am authorized by the chairman of the subcommittee, the distinguished gentleman from Pennsylvania, who has done such an outstanding job of handling this bill, to say that the amendment has been accepted by the subcommittee and recommended for approval by the House.

May I emphasize three things. In order to come under this exemption, any workers must meet the following three criteria:

One, they are employees for less than 13 weeks during the preceding year in agriculture.

Second, they are employed as hand harvest workers and are employed on a piece-rate basis—and this, by the way, will provide an incentive for these youngsters so that they will earn as much as possible.

The third point is that they will commute daily from their permanent residence to the farm on which they are employed.

But may I say again and emphasize that all migrants, all sharecroppers and full-time farm employees would still be covered by the minimum wage.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Hawaii.

Mrs. MINK. Does your amendment relate only to minors who fit the three categories you listed, or does it cover all types of farm employees who fit the description of doing hand harvesting, being paid on a piece-rate basis, commuting daily, and being employed for less than 13 weeks?

Mrs. GREEN of Oregon. The amendment is designed primarily for young people, those youngsters who are working only in the summertime, living at home, and going out into the fields for hand harvesting.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that I may proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon? The Chair hears none and the gentleman is recognized for 2 additional minutes.

There was no objection.

Mrs. GREEN of Oregon. The amendment also would apply to any other person who would meet these three criteria.

Mr. MARTIN of Nebraska. Mr. Chairman, will the gentleman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Nebraska.

Mr. MARTIN of Nebraska. I would like to ask what is the difference between her amendment and section 103, particularly at the top of page 35 of the bill, which sets up three tests in regard to the exemption being counted toward the 500 man-day?

Mrs. GREEN of Oregon. We are being consistent and we are making the three criteria the same.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mrs. GREEN of Oregon. I yield to the gentleman.

Mr. ULLMAN. Mr. Chairman, I commend the gentleman from Oregon. This is a worthwhile amendment. I heartily endorse it and commend her for offering it.

(Mr. ULLMAN asked and was given permission to revise and extend his remarks.)

Mr. MARTIN of Nebraska. Mr. Chairman, I move to strike the requisite number of words.

I would like to ask the gentleman from Oregon another question or two.

We have in our area of the country young teenagers, about 14 or 16 years of age, who go out and detassle hybrid seed corn in the summer. It provides about 500 jobs in my own community.

These people do not work on a piece-rate basis. They are paid by the hour. They work less than 13 weeks in agriculture, and they are within commuting distance of their homes. They do not work on a piece-rate basis.

How would the gentleman's amendment affect these young people who are detassling corn?

Mrs. GREEN of Oregon. One of the three criteria is the hand harvest. It is my judgment it would not include the work to which the gentleman from Nebraska refers.

I am also advised the youngsters doing the work the gentleman described are presently paid over the minimum. Is that correct?

Mr. MARTIN of Nebraska. That is not correct. They are paid, as I understand it, 90 cents an hour.

There is a section in the bill as the gentleman knows, that provides that these schoolchildren shall be paid 85 percent as much as the full-time workers. But when this gets up to \$1.15 and \$1.30, it is going to create a problem for the hybrid seed company.

In fact, I have talked to officials of the hybrid seed company about this problem. They say they will be forced to go to what we call sterile corn, which does not require any detassling. In my county alone that means a loss of 500 jobs for these young people. They work 4 to 6 weeks, they earn from \$150 to \$180 a year.

If we had an "or" in the amendment, instead of the word "and" in regard to working less than 13 weeks in agriculture, it would take care of this situation of the young people who are students. But when we have the three tests, they cannot meet them because they are not on a piece rate basis.

Mrs. GREEN of Oregon. I would say to the gentleman that one of the main reasons why I think it desirable to accept this amendment is that paying those youngsters on a piece rate basis, and limiting it to that, will provide an incentive for them to earn as much as they can.

Mr. MARTIN of Nebraska. Would the gentleman object to an amendment to her amendment to include the word "or" before the last criteria, that is, the one about working less than 13 weeks in agriculture?

Mrs. GREEN of Oregon. If the gentleman will yield, I would oppose offering this as an amendment to the amendment offered. If the gentleman wants to suggest that as a separate amendment, to be considered on that basis, that is all right. I think it should be limited to a piece rate basis. If these youngsters are energetic they can earn the minimum and beyond it. If they are

earning at the hourly rate it should be considered separately.

Mr. MARTIN of Nebraska. In other words, the gentlewoman is opposed to the youngsters going out in the summertime and learning the value of a dollar by the sweat of their brow. She would exclude them from this opportunity simply because they get paid on an hourly instead of a piece rate basis. That is the only conclusion I can come to from her remarks.

Mr. POWELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. POWELL. I yield to the gentleman from California.

Mr. BURTON of California. Mr. Chairman, it is seldom I find myself in even minor disagreement with our distinguished chairman. I recognize the concern that our colleague from Oregon is trying to meet.

However, I am led to believe, by the Wage and Hour Office of the Department of Labor, that some 70,000 employees in the month of May—that is, 70,000 out of 400,000—would be cut out from this bill. Some 85,000 of the 485,000 annual average of farm workers would be cut out of the bill by this amendment.

Although the gentlewoman from Oregon is talking about minors, her proposal excludes adults as well.

This bill has already given consideration to minors by providing the 85 percent differential for the kinds of cases the gentlewoman from Oregon mentioned.

I do not intend to belabor the point. I am certain the amendment will be adopted. I feel it useful and desirable that I record my dissent to the action of the committee.

Mr. POWELL. Mr. Chairman, I believe it would be advisable if we could come to a meeting of minds on this amendment. I should like to know who else is seeking time.

Mr. MARTIN of Nebraska. On this particular amendment?

Mr. POWELL. On this particular amendment, yes.

Mr. Chairman, I ask unanimous consent that debate close on this amendment in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. POWELL. Mr. Chairman, I know there is reasonable dissent on the part of my colleagues, the gentleman from California and the gentlewoman from Hawaii, but I wish to point out that in the course of history even the Bible had to be revised.

The CHAIRMAN. The Chair recognizes the gentleman from Washington [Mr. MEEDS].

(Mr. MEEDS asked and was given permission to revise and extend his remarks.)

Mr. MEEDS. Mr. Chairman, I strongly back the proposed amendment to section 203 of the minimum wage bill. But let me make clear that I support the gen-

eral provisions of this legislation and appreciate the intent of section 203—extending minimum wage coverage to farmworkers. For many of these people, the minimum wage will be a step toward a living wage.

But in the Pacific Northwest, the harvesting of berries and beans has been a traditional source of summer work for students. Each year, thousands of young people in the counties of Whatcom, Skagit, and Snohomish earn money and appreciate the value of hard work. My own son, Mike, picked strawberries when he was 11 years old. These part-time employees are not breadwinners. Yet, the intent of the farm section of the bill is to protect those workers who must depend on agriculture for a living.

The young pickers in my area are paid on a piece-rate basis. That is, they get paid for what they accomplish. This means that workers with a low output can be kept on the payroll and off the streets. If the farmer had to pay the minimum wage to everyone, many of the inexperienced student pickers might be left standing on the corner.

The present bill without our amendment guarantees a minimum wage of \$1 an hour which rises in two stages to \$1.30. Students would have to be paid 85 percent of this amount. Let me again emphasize that our minor amendment to section 203 is consistent with the intent of the legislation: migrants, sharecroppers, and full-time employees of large farms would still be protected by the minimum wage.

The amendment we are backing would apply to farmworkers only if they meet three conditions. They must work in agriculture for less than 13 weeks during the preceding year; they must commute daily from their permanent residence; and they must be hand-harvest employees in areas where the piece-rate system is traditional. If they meet all of these requirements, they would be exempt from the minimum wage.

Just a few short weeks ago, President Johnson inaugurated the 1966 youth opportunity campaign. He has urged employers to hire young people for summer jobs. Because I support this effort, and because I fear the effect of the present section 203 of the bill, I am strongly urging the House to approve a needed amendment. Let us keep the door open for young people.

The CHAIRMAN. The Chair recognizes the gentleman from Washington [Mr. HICKS].

(Mr. HICKS asked and was given permission to revise and extend his remarks.)

Mr. HICKS. Mr. Chairman, I rise in support of this amendment and I commend the committee for accepting the amendment. I wish to join in the remarks of my colleague from Washington [Mr. MEEDS].

The congressional district which I have the honor to represent has a flourishing industry based on berry fields and truck gardens. At least, it has been flourishing. I am frankly more than a little worried about the effects of minimum wage requirements upon growers, unless

we amend this otherwise excellent bill to exempt them.

While the berry and truck garden industry is not the most important single factor of our economy in the Sixth District of Washington, it is definitely significant. To those to whom it is important, it is very important indeed. And among those to whom it is extremely important are thousands of young people.

High school youngsters, junior high youngsters, grade school youngsters flock into the fields each summer to earn their first incomes. My own secretary picked berries during her grade school and high school years, and earned money to buy her own wardrobe for the school year. If she is a fair example of the results of this early lesson in earning a living, I can only say that it's unfortunate every child in the country cannot have a chance to at least partly pay his own way in this manner. We would be a better people for it.

I realize that children are not the only ones involved. There are adults who come into the area to pick berries to feed and clothe themselves and their families, and they depend on the berry-picking money almost exclusively for their sustenance. Their plight has not always been a happy one. Conditions are improving rapidly for them, however. Much better housing is provided for them than was the case only a few years ago. Facilities of many kinds are made available to them. And their incomes are improving, too. Just yesterday I read in my hometown newspaper that the berry growers of the great Puyallup Valley have raised the price-per-unit to be paid this season, so workers of all ages in the berry fields will be taking home more money this year.

The overriding consideration, though, is the fact that the industry simply cannot afford to pay a minimum wage. It probably could do so for the adults, for by and large they are expert pickers who in fact often earn more than the minimum wage on a piecework basis; thus they could very well lose money on a minimum wage.

But there are not enough adult professional pickers to harvest the berry crop. Berries ripen all around Puget Sound at the same time, and they must be picked within a day or two or it will not be worth picking at all. That is why youngsters are used in such great numbers to harvest this important crop.

The employment of young people is important enough in this regard alone to justify amending this legislation to permit them to continue picking berries for piecework payment. The area which I represent just cannot afford to be without this industry, and the young people are the ones who make it possible.

But to me it seems at least as important on another level, the level of growing up to responsible and productive citizenship. We are trying with all our might and main to rear Americans who are geared to stand on their own feet, to make their own way and not depend on government to take care of them. The lessons of the berry fields can be very important in their formative years.

They live at home and commute to work, and they are carefully supervised on the job. They do not have to work hard. They do not have to work at all, as a matter of fact, but can spend the whole day gazing at the northwestern sky if they so choose. Of course, they do not get paid if they do not work. And therein lies the first lesson: You work for what you get, and you get paid for what you do.

And it is important for a youngster to get the first breath of independence in the proper atmosphere. He can get it on a street corner or any number of places that do not distribute much to his sense of responsible independence. Or, in our part of the world, he can get it in an atmosphere of productivity and earning, at least during the harvest season.

Generations of young people have depended on berry and fruit picking to earn their first important money, and generations of parents have depended on it to teach their children some practical economics and to relieve part of the strain on the parental purse.

As I indicated earlier, I regard this as a fine and necessary piece of legislation. But all things considered—the value of the berry and fruit industry to my home area, its contribution to the growing-up process of our children, and the drastic effects on all concerned of a minimum wage requirement—the exemption of this industry from minimum wage provisions is fair and necessary.

[Mr. WAGGONER addressed the Committee. His remarks will appear hereafter in the Appendix.]

The CHAIRMAN. The Chair recognizes the gentleman from Oregon [Mr. WYATT].

(Mr. WYATT asked and was given permission to revise and extend his remarks.)

Mr. WYATT. Mr. Chairman, I commend the gentlewoman from Oregon on her amendment and wholeheartedly support the same.

Mr. Chairman, I rise in strong support of the amendment offered by the gentlewoman from Oregon. My files bulge with letters from children who have written to me pleading that they be allowed to continue to work in our fields during their summer vacation period. I have talked to many of our farmers, particularly our strawberry and pole bean growers, and it is very clear that many of them will be out of business if this amendment is not agreed to. Perhaps it does not go far enough, but it at least offers substantial relief where it is needed. The wages of migrant workers will not be effected because of the strict requirements set up to qualify for the exemption. It is good for our agriculture, and it is good for our young people. The abuses which at one time were involved in child labor are not present in our fields where this labor will be done. I urge in the strongest possible manner that this house agree to this amendment.

The CHAIRMAN. The Chair recognizes the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. Mr. Chairman, I regret

very much that I must rise in opposition to the amendment which has been offered by my distinguished colleague from Oregon [Mrs. GREEN], and also in opposition to the stated position of the chairman of my subcommittee. I feel that the philosophy of this bill with reference to the coverage of farmworkers was to establish farms that qualified for coverage under minimum wage. We discussed this matter of trying to exempt individuals, and we felt this would be highly inconsistent with the basic philosophy as it now exists in the other areas of coverage with reference to retail trade, hotels, and so forth.

It was our feeling once a farm qualified by virtue of having 500 man-days of labor in any calendar quarter, that entire farm ought to be brought under the coverage of minimum wage and no single individual within that farm ought to be working for anything less than \$1 an hour if that farm qualified. However, in order to meet the difficulties of the farm areas we were willing to exempt from the qualification of 500 man-days these three categories.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey [Mr. JOELSON].

Mr. JOELSON. Mr. Chairman, what disturbs me about this amendment is I think there are some farmowners who would, in order to get the cheaper child labor—and let us face it, because that is what it is—who would be putting out of work adult labor. I feel this is certainly not the purpose of the author of the amendment. Her purpose is laudatory. I think what is going to happen as a result of this amendment is that a lot of kids are going to be exploited and will be doing the work of adults and not being paid the pay of an adult. This is an unfortunate amendment, and I will oppose it.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. GOODELL].

Mr. GOODELL. Mr. Chairman, I rise in opposition to this amendment. I agree with the statements that were made by my colleague from Hawaii [Mrs. MINK] and would indicate we discussed this amendment at great length in the subcommittee. Here is what you are going to do by adopting this amendment. You are going to have workers working side by side on the same farm, some of whom are covered by the minimum wage and some of whom are not. In order to help supposedly to exempt children, which sounds like a very good objective, we are exempting all farm laborers qualified according to the criteria. In effect you are saying that if you are a local person coming to work on the farm for a short period, you are exempt. A migrant person is covered. So the farmers using migrant labor will be covered by the minimum wage as far as the migrant labor is concerned. They will not be covered as far as local labor is concerned with people coming from permanent residences and commuting every day. You say we cover permanent agricultural employees but do not cover temporary agricultural employees.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. PUCINSKI].

Mr. PUCINSKI. Mr. Chairman, I ask unanimous consent to yield my time to the chairman of the subcommittee, Mr. DENT.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Chair now recognizes the gentleman from Pennsylvania [Mr. DENT].

Mr. DENT. Mr. Chairman, I want to say to the gentleman from New York that you can dig up all kinds of bogeymen to scare people into voting one way or another, but it is nothing new for a two-wage level to be employed in the same shop. Under the Walsh-Healey Act we have been doing this for years. Under the O'Hara bill now, in combination with the minimum wage bill, we will be doing it for many more years to come. It is not unusual. Why, in fact, you find very, very few shops in the world anywhere where all of the workers receive the same remuneration. There are workers working alongside each other doing the same job. One has been there 10 days and another has been there 10 years longer than another. He gets longevity. The only place you do not get it is in Congress. It is a little bit above the minimum, though, I may say.

Now, the gentlewoman from Hawaii [Mrs. MINK] has pointed out, as has the gentleman from California [Mr. BURTON], the difficulty of writing legislation if you undertake to write it based upon that which would affect your own area only.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. AYRES].

(Mr. AYRES asked and was given permission to revise and extend his remarks.)

[Mr. AYRES addressed the Committee. His remarks will appear hereafter in the Appendix.]

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. O'HARA].

Mr. O'HARA of Michigan. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. POWELL].

Mr. POWELL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Oregon [Mrs. GREEN].

The question was taken; and on a division demanded by Mr. POWELL, there were yeas 63, nays 55.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. BELL

Mr. BELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BELL: On page 41 strike out "highly perishable" in lines 1 and 5, and insert in lieu thereof "perishable."

Mr. BELL. Mr. Chairman, my amendment would strike the word "highly" on page 41 of the bill.

This change is intended to avoid the grave possibility that needed overtime exemptions in the agriculture processing industry will be eliminated for virtually all perishable agricultural commodities that must be processed as soon as possible after harvest.

Under the present language, as interpreted in the committee report, only those commodities that would deteriorate within a 24-hour period after harvest would retain the overtime exemption.

Through conversations with representatives of both labor and management in the processing industry, it is my conclusion that there is hardly a commodity that would qualify for the 14-week exemption under this language.

Agricultural commodities vary in their degree of deterioration.

A few, such as white asparagus, will deteriorate within 24 hours to the point that they cannot be used for marketing.

Others, such as tomatoes, may be kept over 24 hours before processing.

However, this depends upon weather conditions and harvest timing.

When it is extremely hot, and they are picked during the midday, tomatoes would have to be processed immediately or they would ripen beyond the useful stage.

Similarly with peaches, berries, peas, and apricots.

It is obvious then that a great deal of confusion will be caused if this language is retained.

My amendment would maintain the language of the present law which has been applied by the Labor Department for a number of years.

Perishable covers products subject to decay or spoilage. A commodity is not regarded as perishable at the time of delivery unless under ordinary circumstances some affirmative and continuous step such as refrigeration or canning is necessary to preserve it from substantial spoilage or decay within a short period of time, certainly less than 1 week.

And I want to make it abundantly clear that all of those agricultural processors that receive a 14-week exemption under section 7(d) of the act will not qualify for an additional 14-week exemption under section 7(c)—industries of a so-called "seasonal nature."

Section 7(d) to which my amendment is directed applies only to first processing operations.

Section 7(c) will have no application to the processing industry.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. BELL. I yield to the gentleman.

Mr. DENT. The committee has considered your amendment this morning at an executive committee meeting and the committee endorses and accepts the amendment.

Mr. BELL. I thank the gentleman.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from California [Mr. BELL] is agreed to.

There was no objection.

AMENDMENT OFFERED BY MR. PUCINSKI

Mr. PUCINSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PUCINSKI: On page 43, line 18, insert "trailers," immediately after "automobiles,".

The CHAIRMAN. The gentleman from Illinois [Mr. PUCINSKI] is recognized.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman.

Mr. DENT. The subcommittee in executive meeting this morning met and approved and accepted this amendment.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Illinois [Mr. PUCINSKI] is agreed to. There was no objection.

AMENDMENT OFFERED BY MR. MARTIN OF NEBRASKA

Mr. MARTIN of Nebraska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MARTIN of Nebraska: On page 36, line 15, strike the semi-colon ";" and the word "or" wherever it appears and insert the following: "or is an establishment engaged in the operation of a hospital described in Sec. 3(s) (4)."

Mr. MARTIN of Nebraska. Mr. Chairman, the purpose of this amendment is simply to allow to the hospitals throughout the country the overtime exemption that is extended to others in business, particularly the hotels, motels, and restaurants. That is the only purpose of this amendment—to allow the hospitals this same exemption.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Nebraska. I yield to the gentleman.

Mr. DENT. Mr. Chairman, before I state where I stand, I would like to ask the gentleman a question. I know you are trying to perfect the bill. If it is perfected the way you want it, will you still vote against it?

Mr. MARTIN of Nebraska. I am afraid I would have to. I think the gentleman has asked me that question before.

Mr. DENT. Mr. Chairman, I must oppose the amendment because no hospital or association of hospitals have asked for the amendment.

Mr. MARTIN of Nebraska. Mr. Chairman, I decline to yield further to the gentleman.

Mr. Chairman, I would like to explain this amendment.

Hotels, motels, and restaurants have heretofore been exempt from the provisions of the Fair Labor Standards Act. This has also been true of hospitals.

In the bill we have before us today, an exemption is granted from the overtime provisions which is granted to those in the hotel, motel, and restaurant industry. Yet, hospitals, most of which throughout the entire country are nonprofit institutions, are not exempt from overtime.

I had some figures that were furnished to me by the American Hospital Association—in fact, they came up to the Committee on Ways and Means and this was

given to me by the distinguished chairman of that committee, in regard to a survey made by the American Hospital Association a year ago based on the current minimum wage which is \$1.25 an hour. It was further based on the fact that there was no overtime involved in these calculations. Remember it was based on \$1.25 an hour.

Do you know what they came up with? The average increase in the cost in the United States nationally per bed, per day, in our hospitals will amount to \$5.87 based on \$1.25 an hour.

In the Southern States, this increase will amount to \$9.31 a day per bed.

That is a tremendous increase in costs of hospital beds.

This Congress passed a medicare bill which included hospitalization last year, which goes into effect in a very few weeks.

What is this increased cost in regard to hospitalization going to do to the projections as to the cost of medicare set up by the committee and the Congress a year ago? It is going to throw it into a cocked hat, Mr. Chairman. I think this is an excellent amendment. I think it is a fair amendment. I think that the hospitals, particularly because of the fact that they are nonprofit institutions and serve all the people should be entitled to the same exemption from overtime that this committee grants to hotels, motels, and restaurants. I urge the adoption of this amendment.

Mr. HARVEY of Indiana. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Nebraska. I yield to the gentleman from Indiana.

Mr. HARVEY of Indiana. I have just had an opportunity to check with the county hospital in my own county this afternoon. The superintendent of the county hospital told me that on the basis of their present costs for maintenance help, in other words, the hospital personnel—and compared with the ultimate costs of \$1.60, without taking into consideration overtime, that the average per day cost would be increased from \$18 to \$36 per day.

Mr. MARTIN of Nebraska. Mr. Chairman, I would like to quote very quickly from a letter I received from Paxton and Seangood of Cincinnati in regard to this particular amendment:

One of my civic jobs is working with the hospitals in Cincinnati. We have been concerned with the impact of Fair Labor Standards coverage upon these institutions, not with the minimum wage coverage but the overtime provisions. As you know, it is difficult, if not well nigh impossible, to obtain sufficient nurses, both registered nurses and licensed practical nurses, to adequately cover patients in our hospitals.

They go on to ask whether dietitians, technical employees and others will be subject to the overtime provisions of this law.

Mr. POWELL. Mr. Chairman, I rise in opposition to this amendment. The gentleman from Nebraska, who is a member of the Committee on Education and Labor, obviously is not in favor of this bill, and therefore any amendment brought forward will ultimately be voted against by him anyway if the bill passes.

I would like to bring the facts before this body. The rate of hospital workers will not go up to \$1.60 an hour. That is not true. If you read the bill, you will see that the fact is hospital workers will go up from \$1 to—in 1971, 5 years from now—\$1.60.

Also, the Department of Labor, Wages and Hours and Public Contracts Divisions, Office of the Administrator, Clarence Lundquist, just assured the distinguished, hard-working chairman of our subcommittee, the gentleman from Pennsylvania [Mr. DENT] as follows:

If we add \$72 million to payroll costs and expenditures to comply with H.R. 13172, there will be an increase in the proportion of the payroll to total expenditures of 0.2 percent—two-tenths of one percent.

Mr. Chairman, I would like to conclude on a personal note. In New York City we are being faced with a very, very serious shortage of workers in our hospitals. We are in another nurses' strike. While the bill does not affect nurses as such, nevertheless the fact is that nurses are resigning and going into other areas. Their action is symptomatic of the unrest right down to the lowest paid employee of the hospitals in the biggest cities of our Nation.

Therefore, I must appeal on the basis of emotion, plus the facts which I have stated from Mr. Lundquist's letter, that this amendment be defeated.

I yield the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska.

The amendment was rejected.

AMENDMENTS OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. RONCALIO: On page 41, line 13, strike out the quotation mark, and after line 13 insert the following:

"(e) Notwithstanding any other provision of this section, for a period or periods of not more than twenty-eight workweeks in the aggregate in any calendar year, any employer in a State may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection if such employee (1) is employed by such employer in an enterprise found by the Secretary to be (A) the only enterprise in such State engaged in the canning of any perishable agricultural or horticultural commodity, and (B) not engaged in the canning of any such commodities in any other State, and (2) receives compensation for employment by such employer in excess of twelve hours in any workday, or for employment by such employer in excess of fifty-six hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed."

On page 41, strike out lines 15 and 16 and insert in lieu thereof the following: "section 7 of such Act are redesignated as subsections (f), (g), (h), (i), and (j), respectively."

Mr. RONCALIO. Mr. Chairman, ladies and gentlemen, my colleagues and fellow Members of Congress, it is with some reluctance that I take the well of the House tonight, at this late hour, to add further to the work involved in this difficult and complicated legislation, but I must do so in protection of the last re-

maining industry of its kind that I have in my district, which is the entire State of Wyoming.

I believe, ladies and gentlemen, that this is a classic example of the difficulties we encounter when we try, with one fell swoop, to pass a law that is applicable to some of the richest land in the world, where tens of thousands are employed, where hundreds of canneries are in operation, and where agricultural industry and canning goes into billions of dollars a year, and have that same law be applicable to a little State, 5,000 feet high, with a short growing season, where we have a tough time putting in a crop in June without a foot of snow destroying the first crop.

At one time, when I was a young man, 30 years ago or so, there were over 52 canneries in the Rocky Mountains and West. Now there are less than 20. Of those, only one is in Wyoming. There is only one cannery remaining in the entire State. When the season comes there is not an unemployed person in that part of Wyoming. The cannery employs every college student, every father or mother it can find, every housewife who wants to make a few extra dollars.

This cannery cannot stay in business unless it has an exemption of the kind it now has.

All my amendment does is provide that in those States which have only one cannery, that cannery shall have an additional exemption of the nature it now has and needs.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman.

Mr. CEDERBERG. Mr. Chairman, the gentleman said that at one time they had 20 canneries, and now he is down to 1 cannery.

Mr. RONCALIO. No, Mr. Chairman, I said there were 52, now only 20, in the Rocky Mountain West, and only 1 in my State.

Mr. CEDERBERG. I sympathize with the gentleman's predicament. I think we have to take action, or we will have this situation all over. That is why I believe we have to support the amendment Mr. GOODELL is going to put in, or we will have difficulty all over the country.

Mr. RONCALIO. I thank the gentleman.

We can take two alternatives. We can take the land of Wyoming and reduce it by 4,000 feet, down from where it is, so the growing season can be extended. Or we can pass an amendment of this kind and help Wyoming keep the one industry it has.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to my colleague from California.

Mr. BURTON of California. Mr. Chairman, I would like to commend the distinguished gentleman from Wyoming for his interesting course on the economics and the industry of that wonderful State of Wyoming.

Further, he made it very clear that few men in this House have the reputation the gentleman from Wyoming has

for vigorously advancing and defending the interests of his State.

This particular proposal is not one of giant proportions. It is a modest proposal, as the gentleman knows. But I must reluctantly oppose it. Tough cases make bad law. The gentleman has advanced a very tough case, but I think that his proposal would be a bad law, and I would urge the defeat of the amendment of the distinguished gentleman.

Mr. RONCALIO. I am very sorry the gentleman cannot support the amendment. I was hopeful the chairman of the committee or the chairman of the subcommittee might accept this modest, humble, minute amendment in the interest of equity.

Mr. BURTON of California. I might say that the chairman of the full committee left it to me, believing I would affect fewer votes than anyone else, and that is why I have been handed the assignment to speak in opposition to the amendment.

Mr. RONCALIO. In that event, I hope the rest of my colleagues will vote with me for this amendment. It is equitable and fair.

Mr. POWELL. Mr. Chairman, I move to strike the requisite number of words.

When our distinguished colleague from California requested the chairman to accept the amendment, I was reminded of the old adage, "Beware of Greeks bearing gifts and colored men seeking loans."

We are going to discuss this entire issue of canneries tomorrow, when the gentleman from New York [Mr. GOODELL], offers his amendment. I believe it would be wise for all of us, pro or con on this issue, to delay action until we have the full matter before us. Therefore, I am loath to state that I rise in opposition to the amendment.

Mr. ANDREWS of North Dakota. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment, and I should like to ask the gentleman from Wyoming if the amendment would apply to any State which has but one cannery?

Mr. RONCALIO. My amendment would apply to any State which has but one cannery, provided the owners or operators thereof did not have additional canneries in other States.

Mr. ANDREWS of North Dakota. That is why I rise in support of the amendment, because we in North Dakota have been looking for our first cannery for some time and this would give us an excellent hunting license.

Mr. RONCALIO. I am very happy to benefit my neighboring States.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming [Mr. RONCALIO].

The amendment was rejected.

AMENDMENT OFFERED BY MR. ROGERS OF FLORIDA

Mr. ROGERS of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROGERS of Florida: On page 37, following the Green amendment, insert "or (D) if such employee's wage rate is established by the Secretary of Agri-

culture under section 301(c) (1) of the Sugar Act of 1948.

Mr. ROGERS of Florida. Mr. Chairman, this amendment is a simple one which states that because the Secretary of Agriculture under the Sugar Act now sets the minimum wage for sugar field workers they would not now be covered under the Department of Labor, to have that Department also administer the minimum wage.

It is a simple amendment, and it is my understanding—we have a letter to that effect—that the Department of Agriculture and the Department of Labor concur in this amendment.

It is my understanding that the chairman of the full committee may wish to comment at this time, so I yield to him for that purpose.

Mr. POWELL. Mr. Chairman, I thank the distinguished gentleman for giving me this opportunity to comment.

I have before me a letter from the Department of Agriculture, from Under Secretary John A. Schnittker, which I wish to read:

The Sugar Act authorizes the Secretary of Agriculture to establish minimum wages for fieldworkers in the sugar industry. Under this authority the Secretary has established minimum wages for the current crop. These minimum wage levels increased from 75 cents per hour in 1960, to \$1.35 per hour in 1966 for Florida—

That is more than the present bill would provide—

and from 60 cents per hour in 1960 to 90 cents per hour in 1966 for Louisiana.

In view of the provisions of the Sugar Act, exemption of fieldworkers in the sugar industry from minimum wage legislation now before the Congress would not affect such workers adversely. I am advised that the Department of Labor concurs in this view.

I am happy to accept the gentleman's amendment.

Mr. ROGERS of Florida. I thank the chairman for accepting the amendment.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Florida. I yield to the gentleman from California.

Mr. BURTON of California. Do I correctly understand that the wages under the Sugar Act currently, at least, are as high as provided in the bill, \$1 an hour?

Mr. ROGERS of Florida. In Florida we are now paying even more than that. We are now paying \$1.35. As has been stated, I believe Louisiana is already paying 90 cents.

The Agriculture Department has already scheduled hearings as to whether the wage rate in both Florida and Louisiana should be amended or continued at the present level.

Mr. BURTON of California. If wages were set and we had in this Sugar Act a minimum that would protect all of those working in this area, that would be fine. However, those of us in California, I might add, pay those in our beet fields higher wages, considerably higher, than this. To some extent cane and beet are competitive. I am sure my colleague from Hawaii [Mrs. MINK] would have a feeling about permitting any agricultural worker to have a wage level set at less than that provided for all other workers in agriculture under this bill.

Mr. ROGERS of Florida. I think you will find they have stated, of course, that they will be guided by this bill in their wage determinations in the Department of Agriculture. As I say, in our State they are even far beyond that. In fact, we were paying up to \$1.90 an hour during the 1964-65 season.

Mr. BURTON of California. In other words, it is your understanding that the Department of Agriculture would apply that minimum wage at no less than or would say those working in the sugar fields, no matter where they are in the country, would receive no less than the minimum provided in this proposal if it becomes law?

Mr. ROGERS of Florida. I understand it will be a guiding feature of the Department of Agriculture.

Mr. BURTON of California. But it is your understanding and your intention in introducing this amendment that the Secretary of Agriculture would in no event establish a wage less than that provided for other agricultural workers in this bill, assuming this bill becomes law. Is that your understanding? If it is, I withdraw my objection.

Mr. ROGERS of Florida. I say that I understand it can be used as a guideline. I cannot speak for the Secretary of Agriculture, but it is my understanding that already he has set a wage in Florida beyond what has been asked for in this bill, which is \$1 an hour.

Mr. BURTON of California. As the gentleman knows, the Sugar Act asks for the prevailing wage without any minimum.

Mr. ROGERS of Florida. I understand your minimum will pretty well set a prevailing wage anywhere and, in fact, we are paying above that now.

Mr. ANDREWS of North Dakota. Mr. Chairman, I rise in support of the amendment.

Speaking on behalf of the beet growers in the northern part of our country, we have the same situation existing there. These wage rates are set by the Secretary of Agriculture. For the edification of my friend from California, they are not set higher than the minimum wage that will be established by this act if it goes into effect. In the temporary absence of the chairman of the subcommittee I would like to question my colleague from Florida [Mr. ROGERS], who joined me in conversation with Mr. DENT earlier on the thrust of this amendment. Is it not true that this amendment would also relieve from the 500-man-day criteria these people who are included in this amendment?

Mr. ROGERS of Florida. All this does, as I understand it, is to say that the Department of Agriculture will administer the minimum wage to those field workers in sugar just as they have always done.

Mr. ANDREWS of North Dakota. Let me refer the question to Mr. DENT. This will remove them from the act since they are already covered, that is, these people whose wages are already set by the Department of Labor and the Department of Agriculture, and would remove them from the 500 man days as we said earlier?

Mr. DENT. Will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman.

Mr. DENT. Yes. They will not have any part of this act. They are under the Sugar Act, and I understand the Secretary of Labor and the Secretary of Agriculture already agreed on the jurisdictional disputes.

Mr. ANDREWS of North Dakota. I want to make it crystal clear for the record they will not figure in the 500 man days.

Mr. DENT. Yes.

Mr. HAGEN of California. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman.

Mr. HAGEN of California. It is my understanding the Sugar Act in setting wages is based on the findings of the prevailing wage. There are wide differences across the country in these wage rates. They have been very low in the South and very high in other parts of the country.

Mr. ANDREWS of North Dakota. I can only speak for the sugarbeet growers of the North. I understand they are higher.

Mr. HAGEN of California. They are so high there I do not know why you object to this coverage.

Mr. ROGERS of Florida. Will the gentleman yield further?

Mr. ANDREWS of North Dakota. I yield to the gentleman.

Mr. ROGERS of Florida. I will be glad to tell him. Here are workers covered by one department and here you have another department coming in to administer the same thing. It is ridiculous. We think it is simply a matter of trying to see that these people are covered. We recognize that. We passed the law covering them. Now we are simply saying that the Department of Labor and the Department of Agriculture have agreed. Even the Secretary has agreed, and certainly I would object if it were not fair, just, and equitable.

Mr. HAGEN of California. The gentleman will agree that wage rates differ from State to State; is that not right?

Mr. ANDREWS of North Dakota. Mr. Chairman, I do not have the time to yield further.

Mr. Chairman, I wish to commend the gentleman from Florida [Mr. ROGERS] for offering this amendment and I appreciate the committee chairman and the subcommittee chairman accepting it and clearing up the question of the 500 man-days which is so important to the diversified farmer in my area.

Mr. GOODELL. Mr. Chairman, I move to strike the requisite number of words.

(Mr. GOODELL asked and was given permission to revise and extend his remarks.)

Mr. GOODELL. Mr. Chairman, I shall just take one moment. However, I believe the record should be absolutely clear. A question was asked about whether these workers would be counted toward the 500 man-days total. That provision appears in title I of the bill. I have just checked the amendment. They will be counted, based upon my interpretation, in the 500 man-days.

They are exempt from the minimum wage coverage, but they will be counted toward the 500 man-days. This will have to be taken into consideration in determining whether a farmer himself is covered. I believe the record should be clear on this point.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from Pennsylvania.

Mr. DENT. Well, all of us have agreed to disagree. That is why there are so many lawyers here.

Mr. Chairman, the Department of Labor said that this is the only amendment required, and they will remain in the status in which they are at the present time. We want to remember that under the Sugar Act now, the Secretary of Labor, in conjunction with the Secretary of Agriculture, has established a control based upon the so-called bracero or migrant worker coming into an area, and if you do not do this, you take away that \$1.25 now set up for a local area.

Mr. ALBERT. Mr. Chairman, will the gentleman yield to me?

Mr. GOODELL. I yield to the distinguished majority leader.

Mr. ALBERT. Mr. Chairman, let me pose this question: If a farmer has beet or cane sugar operations and also produces wheat and has workers engaged therein, would you add the two together in order to get the 500 hours, or does the exemption just go to the workers themselves in the sugar industry, that industry being exempt?

Mr. GOODELL. There is no exemption in this amendment as to counting. They are all counted toward the 500 man-days. The exemption that is included in the gentleman's amendment would exempt them from minimum wage coverage. They would be counted under the Sugar Act insofar as the minimum wage is concerned. Then, all of the employees in the sugar industry would be counted in this instance, working on sugarbeet or sugarcane farms, toward the 500 man-days. You have to amend title I in order to get the correct computation.

Mr. ROGERS of Florida. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from Florida.

Mr. ROGERS of Florida. I believe the chairman of the subcommittee has stated the situation correctly concerning its intent. It was so stated by the Department of Labor and by the Department of Agriculture that the intent of this amendment, as stated by the chairman, is simply to allow them to go ahead and cover them as they have been covered under the Sugar Act.

Mr. GOODELL. That is correct, and that is what will happen.

Mr. ROGERS of Florida. And they will accept the minimum wage.

Mr. GOODELL. But they will be counted in the 500 man-days.

Mr. ANDREWS of North Dakota. Mr. Chairman, I would like to ask the subcommittee chairman—I brought this point up earlier this afternoon with the gentleman and he assured me that he had the assurance of the Department of Agriculture and the Department of La-

bor on the matter—this question: If the amendment does not apply properly to title I, could we have the assurance of the subcommittee chairman, it will be amended in conference to reflect the intent of Mr. ROGERS and the sugar industry that these man-days are not counted toward the 500?

Mr. PEPPER. Mr. Chairman, will the gentleman yield for a question?

Mr. ANDREWS of North Dakota. Mr. Chairman, would the chairman of the committee give us assurance that it will be modified in the conference in order, if possible, to reflect the thrust of what the gentleman from Florida and I would like to have?

Mr. POWELL. I cannot bind the conferees to a conference on such a matter.

Mr. ANDREWS of North Dakota. I understand that. Will you keep in mind the idea as expressed by the gentleman from Florida [Mr. ROGERS] that you will try to have this worked into the legislation?

Mr. POWELL. Yes.

Mr. GOODELL. I think we may have problems in getting this settled in the conference unless there is a change in the Senate bill.

Mr. PEPPER. Mr. Chairman, I move to strike out the last word to ask this question. Will the able gentleman inform the House how long the Sugar Act under which the Secretary of Agriculture has been fixing the minimum wages and on which now the Secretary of Labor will concur in the decision has been in effect?

Mr. ROGERS of Florida. Minimum wage coverage for sugar workers has been in effect under the Sugar Act, as amended, since 1948.

[Mr. WATTS addressed the Committee. His remarks will appear hereafter in the Appendix.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. ROGERS].

The question was taken, and on a division (demanded by Mr. BURTON of California) there were—ayes 89, noes 38.

So the amendment was agreed to.

Mr. POWELL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. PRICE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938, to extend its protection to additional employees, to raise the minimum wage, and for other purposes, had come to no resolution thereon.

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

MISCELLANEOUS AMENDMENTS TO COAST GUARD LAW

Mr. GARMATZ. Mr. Speaker, I ask unanimous consent that the Committee of the Whole House on the State of the Union be discharged from further consideration of the bill (H.R. 11781), to improve and clarify certain laws of the Coast Guard, and I ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

Mr. GROSS. Mr. Speaker, reserving the right to object—and I shall not object—I wish to say to the gentleman that I realize the necessity for getting this legislation through if it is to meet the desired purpose for which it is intended.

I am glad to have the assurance from the Treasury Department and Coast Guard officials that the term of obligated service for the aviation cadets who will be trained for the Coast Guard will be 3½ years, which conforms to the training program for cadets trained by the Navy, the Navy providing for the training of the Coast Guard. I am also glad to have the assurance which has been given by the Treasury Department that no new or additional facilities will be necessary to train the aviation cadets for the Coast Guard; that this training will be provided by the Navy without additional expense for new facilities to be operated by the Coast Guard.

Mr. GARMATZ. The gentleman is correct.

Mr. GROSS. Mr. Speaker, I support the legislation and I withdraw my reservation.

Mr. CLARK. Mr. Speaker, reserving the right to object, I rise in support of H.R. 11781.

The bill, H.R. 11781, is intended to provide the Coast Guard with necessary authority to meet its expanding obligations.

The Coast Guard recently acquired the responsibility for the operation of all large icebreakers. During the coming year it is anticipated that five such icebreakers will be transferred from the Navy to the Coast Guard.

In the past few years we have all observed the rapid expansion of pleasure boating in the United States. This places an increasing burden on the Coast Guard by way of policing and protection of our citizens using the waters. As more and more of our inland waterways are opened to navigation, there is an increasing need for aids to navigation and each year the Coast Guard must provide equipment and facilities to meet this expanding need.

The organization has been operating under a ceiling of 3,500 officers. This bill would increase that figure to 4,000. While there is no present intention of expanding the officer corps of the Coast Guard to any appreciable degree, the expanding responsibilities indicate quite clearly that it will be necessary to add to the number of officers over the next few years.

Along the same line, there is presently a ceiling of 300 cadets in the incoming class at the Coast Guard Academy. At

THE ADMINISTRATION'S "MANAGED NEWS" POLICY

(Mr. DICKINSON (at the request of Mr. HORTON) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

MR. DICKINSON. Mr. Speaker, Henry Cabot Lodge has been in public life so long that he is scarcely a secret weapon. There are no Buddhist priests known to be in Washington who might burn themselves before the White House. If the Reverend Bill Moyers was introducing a new dance to replace the frug and the watusi, it is scarcely a national security problem.

Yet, a White House dinner party for about 190 persons honoring the Ambassador to Vietnam, Mr. Lodge, was subjected to military censorship and, contrary to usual custom, the guest list has yet to see the light of day.

The story behind it is one of the funniest that has hit Washington for a long time. With society editors exercising enforced self-censorship, the incident would be entirely hilarious if it did not have serious implications as to the extent of the administration's "managed news" policy.

On May 10, my colleague and friend, the gentleman from Iowa, Representative H. R. Gross, stood up on the House floor and, speaking of a benefit dance for the John F. Kennedy Foundation for the Performing Arts, remarked:

Last weekend, the Smithsonian Institution—the new building on which the taxpayers have spent millions of dollars—was converted into a place of exhibitionist dancing with \$75 to \$100 charged for admission tickets.

I could not believe my eyes last Sunday when I picked up the newspapers and saw pictures of the Reverend Moyers, White House Press Secretary, gyrating halfway down on his knees, doing the watusi or the frug, or whatever you please to call it.

Then there was a picture of the wife of a State Department official who was sent home to put on some clothing. She apparently appeared half naked; at least that is the story in the newspapers.

You all know the commotion which followed. But apparently few, if any, realized into what terror these remarks threw ruling circles.

It came out when Washington Evening Star society writer, Isabelle Shelton reported Thursday, May 19, that there had been a huge "private" White House dinner party the previous Monday for Ambassador Lodge and that there was "an attempt to bottle up the whole thing and pretend it was not happening."

Now, since big White House diplomatic dinners are put on at taxpayers' expense, guest lists customarily have been made available for those interested. But even subsequent attempts to get a guest list for the Lodge dinner were unavailing. In fact, society reporters seemed frightened they would lose their White House party privileges if they even talked about the affair. Betty Beale, top Washington social columnist, wrote in the Washington Star of Sunday, May 22, that when a man, who said he was telephoning from the Senate Office Building,

called up to ask names of those who had attended the Lodge dinner, "he hung up without getting the information desired."

The Rose Garden curtain has fallen. Henceforth, it will be as hard to follow the Moyers' dusk-to-dawn antics as it is to learn what the policies and facts are with respect to the Vietnam war.

"STRATEGY STRINGS" ASSAILED IN FOOD-FOR-FREEDOM PROGRAM

(Mr. HARVEY of Indiana (at the request of Mr. HORTON) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HARVEY of Indiana. Mr. Speaker, I ask unanimous consent to include this article from the Christian Science Monitor of May 25, 1966, in the body of the RECORD.

I do not agree with the conclusions arrived at by Mr. Willis, but do expect to include the subsequent article on this subject.

"STRATEGY STRINGS" ASSAILED IN FOOD-FOR-FREEDOM PROGRAM

First of two interviews giving both State Department and congressional sides of a rising Washington fight over a key arm of American foreign policy—the Food for Peace program.

(By David K. Willis, Staff correspondent of The Christian Science Monitor)

WASHINGTON.—Richard W. Reuter, the man who runs the \$1.6 billion-a-year American Food for Peace program, strode across the room, sat down, and took aim at the House of Representatives.

"It would seem," he said in an interview, "that political strings are to be attached to concessional sales of American food to hungry nations abroad. They will make the program inflexible. They will reduce its influence. They will tarnish the American image."

Mr. Reuter, a brisk special assistant to Secretary of State Dean Rusk, was making his first public criticism of changes the House Agriculture Committee made last week in the President's Food for Freedom bill.

He and Mr. Rusk are particularly concerned by the committee's action in forbidding food sales or grants to nations who sell or ship to North Vietnam or to Cuba.

This is an extension of the current law, which bans sales only to nations whose ships carry trade to Cuba. The Agriculture Department and the Agency for International Development are equally opposed to change.

"India sold \$600,000 worth of jute to Havana between April and December, 1965," Mr. Reuter said sternly. "That's two-tenths of 1 percent of its total jute shipments."

"Cuba uses the jute to make sugar bags. 'Now, the House committee language makes no distinction between strategic or nonstrategic goods, or humanitarian cargoes. So if this becomes law, India will have to stop selling the jute or lose American food aid.'"

NATIONS AFFECTED BY CHANGE

He implied that India must have the food, so it will drop its jute exports. This is the kind of invasion of another nation's affairs that the State Department badly wants to avoid.

Other nations immediately affected by the House action would be Pakistan, Yugoslavia, Poland, Morocco, and six in Latin America.

Responsible for the new language is Rep. PAUL FINDLEY (R) of Illinois, who wins considerable support in Congress by insisting that no aid be given to anyone helping Hanoi fight Americans in South Vietnam.

Beginning what is intended to be a sustained campaign to have the House language changed, Mr. Reuter told this newspaper:

"Political strings like this are self-defeating. Why, the United States itself does not meet the criteria—we have been sending medical supplies to Cuba ourselves!

"If this kind of restriction had been in effect over the last 10 years, about half the value of the program would have been lost."

(So far, Food for Peace has provided some \$14.6 billion worth of food abroad, in grants and local currency sales.)

Now in top gear, Mr. Reuter continued: "Look at the position this put us in. The emphasis in the President's bill is on self-help. We are saying to needy nations: 'If you help yourselves, so that in time you can produce your own food, then it is worthwhile for us to meet your short-term needs now.'"

HOUSE MOOD ASSESSED

"Moreover," he said, "we are trying to convince European nations to help us to do it."

"Now, all of a sudden, we are saying that we will fight the war on hunger—but on carefully chosen ground. Political strings can only detract from our motives."

"We are not trying to help Hanoi or Havana—far from it. We just believe that our foreign-policy hands should not be tied in this way."

Judging by the House mood at the moment, there appears little likelihood that the full House will amend the committee language on the floor.

Two weeks ago, the full House endorsed the same language in the agriculture appropriations bill.

Nor is the State Department happy about what might happen in the Senate. "We just don't know," said an official with a shrug of the shoulders. The administration has some friends in the Senate. It now is busy checking each member of the Senate Agriculture Committee to ascertain support.

There are signs that the language may be amended in the Senate, and go to conference. But Mr. Reuter isn't waiting. He has decided to move onto the attack now.

"You know," he said with a grin, "the bill is a good one, really, even as amended by the House committee. For the first time, food is given the same value as steel and tractors in foreign aid. Credit terms are to be the same as regular aid. The committee wanted to reduce the repayment period from 40 years to 20 years, but this was eventually reversed by a vote of 19-15."

"Before now, Food for Peace was just surplus food. Not too much attention was paid to it. Now farmers are being given more acreage to grow the types of food needed in the hungry areas."

PLANTING LEVER USED

(Farmers were told recently they could plant an extra 15 million acres of wheat this year. As part of its new campaign, the administration is hinting that the increase might have to be rescinded if the House language isn't amended.)

The bill leaves intact the President's request for \$3.3 billion a year for the new Food for Freedom program, but cuts the authorized term from five to three years.

It also establishes a farmer-to-farmer program by which the Agriculture Department would use American know-how to solve farm problems abroad.

Mr. Reuter is worried about other committee changes. Among them: that countries receiving Food for Peace—or, to give its new title, Food for Freedom—aid must identify it as coming from the United States when it is sold.

He waved a hand at the unusual curtains in his office—made from the sacks used to transport wheat abroad, with the red and white government markings clearly visible.

"That's how we show where the food comes from when it enters the other nations," he said. "I have the curtains up there for effect. But now we are told that when a man overseas comes to buy a loaf of bread, the words 'United States' must be on that bread.

"But only the government of the man's country gets the food on concessional terms. The man himself pays the same price in the shop that he always did. So what do we gain by putting 'from the generous United States' on the loaf?

"We don't gain—we lose."

The bill will go to the House floor in early June. Then, and only then, will the Senate Agriculture Committee take it up.

State Department officials, from Dean Rusk down, are working hard to turn what is to them a most unfavorable tide of events.

THE PLIGHT OF THE FARMER

(Mr. WALKER of Mississippi (at the request of Mr. HORTON) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WALKER of Mississippi. Mr. Speaker, we have heard much recently about the plight of the farmer: the high rate of farmers who are abandoning their farms for other methods of earning a livelihood, the high cost of production of the farmer, and the high cost of food.

Now, this body is considering legislation that will add greatly to these existing problems.

My first contention is that when the farmer is forced to pay a minimum wage to his field hands, in many cases, it will put them completely out of business and in other cases, it will force him to lay off the necessary number of hands to allow him to operate without having to comply with the law. A high pay scale to farmworkers is of no value at all to those who are out of work because the farmer cannot afford to pay them.

Many of my colleagues say this will not happen. I say if this measure passes, the farmer will have only two alternatives—either he will be put out of business, or he will continue to operate at the cost of further inflationary food prices.

I think it is high time that all branches of this Government realized the importance of the farmer to the American economy. It is as simple as this: he feeds us. And, in the face of a worldwide food shortage, he is presented the problem of possibly having to feed the rest of the world.

In recent years farm income has risen only 6 percent compared to a jump of more than 50 percent in the cost of living.

I think that this body should show the farmer through its refusal to extend minimum wage coverage to him that we are in complete sympathy with the problems confronting him.

Already our economy is in a state of inflation. The President has asked businesses to proceed cautiously with capital investments. He has asked the housewife not to purchase items that are priced too high. Now he is asking this Congress to pass legislation which will do exactly what he is supposedly trying to prevent.

He is asking the Congress to extend this coverage to the small businessman who already is in trouble financially. To

force a small business to incur the added expenses that this bill proposes, would be doing nothing but adding to the present rate of unemployment and increasing the mortality rate of small business.

This Nation was once called a nation where anyone with ingenuity and the desire to work hard could be successful.

This is not altogether the case today—and the added burden of having to comply with this legislation would make it nearly impossible for the small businessman to survive.

To place this burden upon the farmer and the small businessman would prove unfair to the employer, a threat to the security of the employee, and a grave danger to our economy.

RADIO BROADCASTING

(Mr. WALKER of Mississippi (at the request of Mr. HORTON) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WALKER of Mississippi. Mr. Speaker, 45 years ago, on September 15, 1921, the Department of Commerce issued its first regular broadcasting license. Forty years ago the first 24-station radio network was started. In the years since, the growth of radio has been spectacular.

By its silver anniversary in 1946, radio had achieved amazing success. There were some 1,150 radio stations and 57.8 million radio sets. Radio's record of service during World War II had been exemplary. For the first time American civilians were promptly and fully apprised of war developments around the world. Radio was the entertainment medium of the Nation—with daytime soap operas, comedy and variety shows, and dramatic programs. Ma Perkins, Edward R. Murrow, Arthur Godfrey, Bob Hope, and "Twenty Questions" were in almost every American living room—on radio. The sound of radio was the sound of entertainment.

With the birth of radio's younger brother, television, radio seemed outdated. Television soon preempted radio's role as families gathered around TV screens for the evening's entertainment.

Yet, radio refused to die. Rather, after a few years, it adapted itself to a new role. It took on a new sound. Today radio's sound is not that of the dramatic or variety program. It is that of music, news, or the talk show. Unlike television which seeks the largest possible audience, radio stations tend to specialize. There is the popular music station, the talk station, the country and western station, the religious station, the classical music station. Radio is not geared to the national, but to the local audience. It furnished a local forum, provides local news, carries local advertising, promotes local civic drives, and caters to local needs.

Radio accompanies the listener as he drives to work or on vacation. It is carried from room to room, to the beach, on the street. It is turned on all day, not just in the evening hours. And, it can either demand full attention, as in news broadcasts, or furnish background sound, the sound of music.

Radio is still growing. Radio is found in 93 percent of all homes in the United States. Whereas on January 1, 1946, there were 7.5 million automobile radios in use, last January 1 there were 60 million. The total number of radio sets in use has increased during the same period from 57.8 to 242 million. The clock radio did not have appreciable use until the 1950's. The transistor radio is a recent development—and dramatically demonstrated its worth in last fall's east coast power blackout.

The number of radio stations has also grown. Whereas there were about 1,000 AM stations on the air in 1946, in 1965 there were 4,000. And during this period FM radio has come into its own, with more than 1,400 FM stations on the air.

Radio is very much a vital force in the United States—issuing storm warnings, keeping the public informed of the latest news developments. It is used not only for commercial broadcasting, but also by police departments, firefighters, public utilities, and transportation companies. It is used for essential personal and business communications through the Citizens Radio Service. It is a hobby for more than 260,000 radio hams, who through their own Amateur Radio Public Service Corps and through the Government-sponsored Military Affiliate Radio System and the Radio Amateur Civil Emergency Service meet countless emergency situations and provide a reservoir of trained personnel for military and civil defense communications.

Radio is indeed a most important sound in 1966. My congratulations to the radio industry which has so well met our Nation's changing needs.

CONGRESSIONAL REFORM—LIVE BROADCAST OF NEW YORK SENATE SHOWS WAY FOR U.S. CONGRESSIONAL "LOOK AND LISTEN" BILL

(Mr. CLEVELAND (at the request of Mr. HORTON) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, last month, the State Senate of New York permitted a live broadcast of one of its sessions. This is a great step forward and should be emulated by the Congress. I have introduced legislation to provide for the live broadcasting of both House sessions and House committee hearings—House Resolution 660 and House Resolution 660. These would put into effect what I call the public's right to look and listen to their Government in operation. I believe these measures would help restore the prestige of Congress.

This principle has won the endorsement of the broadcasting industry and numerous newspapers. Among them is the New York Times, which, in an editorial dated April 21, commented in a most constructive way upon the action of the State senate in New York. I hope to see this procedure adopted in the House of Representatives and the Senate as well. The Times is to be praised for its support of this important principle

Mr. FRASER. Mr. Speaker, I am introducing a bill, H.R. 15275, to allow reimbursement of medicare patients for their transportation to a hospital or rehabilitation center to receive the care of a therapist.

All that is involved is striking from the medicare law a phrase stating that expenses can be paid "but not including transportation of the individual in connection with any such item or service."

I believe that the following letter from Dr. Frederick J. Kottke, head of the department of physical medicine and rehabilitation at the University of Minnesota Medical School, tells clearly the problem created by the present wording of the statute.

I am hopeful that we can take action on this question quickly and avoid a dissipation of the services of our therapists who are in such short supply.

The aforementioned letter and the text of the bill follow:

UNIVERSITY OF MINNESOTA MEDICAL
SCHOOL,

Minneapolis, Minn.,

Re transportation of patients under medicare.

HON. DONALD M. FRASER, M.C.
House Office Building,
Washington, D.C.

DEAR MR. FRASER: I am concerned that the provision under the new Medicare law to pay for the travel of therapists to extended care facilities or into the patient's homes will lead to such an inefficient utilization of professional medical personnel that, in effect, we will squander our health resources.

The Medicare Bill provides that under both Part A and Part B a patient may receive a variety of types of rehabilitation therapy either in a nursing home or at home. I am not particularly concerned at this time about the cost of this care at home but I am concerned about the fact that this program will dissipate the available time of therapists as they travel from one place to another to give therapy. What limited statistics are available indicate that a therapist who travels about to give care can provide only 25-30 per cent as much service as a therapist working in one place. This means that rehabilitation care for a given number of patients will require three or four times as many therapists under the "out-of-hospital" program as would be necessary if patients came to a therapy department.

At the present time there are approximately four times as many jobs available for physical therapists as there are therapists to fill the jobs. There are two to three times as many jobs available for occupational therapists as there are therapists to fill the job. There are five to six times as many jobs available for speech therapists as there are therapists to fill those jobs. The proposal therefore to establish a highly inefficient program at a time when we do not have enough rehabilitation personnel to take care of current demands is incomprehensible to me.

The Expert Medical Committee of the American Rehabilitation Foundation has discussed this problem several times with a number of persons in the Public Health Service. Although it was acknowledged that the "out-of-hospital" program will be more inefficient of personnel than an in-hospital program, it has been defended on the basis that we must protect the utilization of hospital rooms and hospital beds. As a matter of fact, there is less critical demand for hospital beds than there is for therapeutic personnel. Moreover, if there were provision to transport the patient to the hospital for

therapy rather than try to transport the therapist to the patient, this would not require more hospital beds, it would conserve the time of personnel, and it would be less expensive than the "out-of-hospital" system that is being proposed.

I am writing this letter as a desperation measure. Time is running out. We are already seeing a depletion of the therapists and in rehabilitation departments in hospitals such as our own. We have a table of organization for 22 physical therapists and have 14 at the present time. On the first of June we will have 8. Some of these therapists are leaving to accept more lucrative jobs in nursing homes which are tooling up to exploit Medicare. A nursing home in order to qualify for rehabilitation services must have a physical therapist. The increased charges which can be made by rehabilitation nursing homes are so much greater than those which can be made for a standard nursing home that the nursing homes are willing to pay an annual salary of \$10,000 or more to a physical therapist merely to qualify.

Unfortunately that therapist in the nursing home will be in no position to provide the same kind of rehabilitation service to patients which can be provided in a rehabilitation center. There will not be the doctors available to supervise nor will there be the necessary equipment or complete organization to provide a comprehensive rehabilitation program. I foresee that unless arrangements can be made to transport patients from homes or nursing homes to comprehensive rehabilitation facilities where the care can be adequate and efficient, there will be such a depletion of personnel from the rehabilitation centers that they will be unable to function and the type of therapy given in the extended care facilities or at home will be totally inadequate to achieve rehabilitation.

For this reason it appears to me imperative that provision be made to transport patients to and from the medical centers for their therapy.

Sincerely,

FREDERIC J. KOTTKE, M.D.,
Professor and Head, Department of
Physical Medicine and Rehabilitation.

H.R. 15275

A bill to amend title XVIII of the Social Security Act to permit payment thereunder, in the case of an individual otherwise eligible for home health services of the type which may be provided away from his home, for the costs of transportation to and from the place where such services are provided

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1861(m)(7) of the Social Security Act is amended by striking out the comma at the end of subparagraph (B) and inserting in lieu thereof a semicolon, and by striking out "but not including transportation of the individual in connection with any such item or service;"

(Mr. FRASER (at the request of Mrs. MINK) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

[Mr. FRASER'S remarks will appear hereafter in the Appendix.]

FAIR LABOR STANDARDS AMENDMENTS OF 1966

(Mr. GILBERT (at the request of Mrs. MINK) was granted permission to extend

his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GILBERT. Mr. Speaker, I support H.R. 13712, the Fair Labor Standards Amendments of 1966. I believe this legislation will help to meet the vital needs of our working poor. The workingman, the bulwark of our economy and our Nation's strength, must have an adequate living wage to meet present day increases in living costs and taxes of all levels of government. Early in this Congress, I introduced a bill proposing a \$2 an hour minimum wage increase. I felt this should be the minimum if we are to establish the Great Society and win our war against poverty. So, while the bill before us does not, in my opinion, provide adequate minimum wage, and it still leaves many workers without Fair Labor Standards protection, it is constructive and an important step forward.

I commend Chairman DENT of the Labor Subcommittee and other members of the committee. Many months of intensive study and deliberation have gone into the bill before us. H.R. 13712 will increase the Federal minimum wage for those presently covered by the act, to \$1.40 an hour in February 1967, and to \$1.60 an hour in February 1968. The extension of coverage to 7.2 million additional workers—including 485,000 agricultural employees—will increase the purchasing power of those who need the increase the most. The bulk of the newly covered would be in retailing, hospitals, nursing homes, certain agriculture employees, construction, restaurants, hotels, motels, laundries and certain Federal Government employees—those whose employer provides contract service for the United States and wage board and certain other employees.

Mr. Speaker, in 1938 we enacted the first minimum wage laws to enable workers to live at least at a "minimum standard of decency." Congress then declared it to be the policy of the Fair Labor Standards Act "to correct and as rapidly as practicable to eliminate labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers." Mass poverty at that time was greatly reduced by Federal minimum wage and hour protection. The three increases in our minimum wage since that time were justified and the proposed increases in today's bill and extended coverage are needed and are justified. Today, mass poverty stemming from substandard wages is one of our society's greatest problems, affecting every racial and ethnic group. In my own State of New York, our Negro and Spanish-speaking constitute an increasingly large segment of the lowest income groups. A higher minimum wage and the protection of coverage for more workers is far more desirable to increase the level of living of the poor than increases in welfare payments and similar programs at the expense of the taxpayers.

Mr. Speaker, our affluent society cannot argue that it cannot afford to pay a living wage. In 1963, of 7.2 million families living below the poverty level, 2 mil-

lion had heads of family who worked full time through the year; but at wages insufficient to raise their families above the poverty line. A head of a family would have to earn \$1.55 an hour to reach the poverty index of \$3,100, and \$3.20 an hour to achieve a modest but adequate family income. As I have said, the increases proposed in this bill will not assure minimum level of living to the families of all covered workers, but at least it represents progress toward that objective.

Those who oppose a minimum wage increase will argue that industries covered by the minimum wage will find it difficult or impossible to adjust to wage increases. Surveys of the U.S. Department of Labor and various State agencies have shown this has not been the case after previous minimum wage increases.

Statistics show that minimum wage changes do not cause unemployment, and inflation has never resulted from increases in the past. The claim that the increases will prove inflationary because they increase the cost of production is not supported by experience following minimum wage increases in the past. The Department of Labor survey found no identifiable relationship between minimum wage changes and overall price levels. Studies of the last increase in minimum wage on low-wage industries concluded there was no discernible effect on their nationwide levels of employment. Aggregate employment in these industries has increased since 1961. Most firms can pay for the costs of the proposed amendments through increases in productivity. Some of the lowest wage industries have experienced above-average increases in productivity.

Mr. Speaker, the provisions of this bill will provide more purchasing power to workers, will benefit our economy, and will provide decent living standards more in keeping with today's living costs. It will be a step forward in our fight against poverty.

I rise in support of H.R. 13712, and urge my colleagues in the House to vote with me for passage of this bill.

LET'S PUT PRESSURE ON DE GAULLE

(Mr. OTTINGER (at the request of Mrs. MINK) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, by now it is quite clear that our relations with France are at their lowest point in many years. France has announced that it is withdrawing French troops from NATO, and has asked American troops to leave French soil. France has refused to sign the Nuclear Test-Ban Treaty. She has actively opposed our efforts in Vietnam, and in fact has combined with Russia in the United Nations Security Council to veto the peace efforts made there earlier this year under the leadership of Ambassador Arthur Goldberg.

France has engaged in extensive trade with Communist China, but in Europe she has refused to permit Britain to enter the Common Market, thus rendering useless the major provisions of the trade act passed by Congress in 1962.

These anti-American actions cannot be blamed on the United States. We have tried to be friends with France. We have given her almost \$10 billion in aid since World War II, and offered our cooperation in economic and military matters. Nor do these actions represent, in my judgment, the feelings of the French people. They are solely and exclusively the policies of one man, Charles de Gaulle, with his archaic notions of grandeur and his concepts of ultranationalism.

We have been kind to De Gaulle, hoping that we could wait him out. But when, at 78, he ran for another 7-year term and won, and when he then intensified his anti-U.S. policies, it became obvious that our course of action could never succeed.

I therefore propose that we make it crystal clear to De Gaulle that we will henceforth deal with him at arms length. We should:

First, stop furnishing France with nuclear materials and nuclear technology, as we have been doing.

Second, if he insists on American NATO troops leaving France, make him pay for the moving costs—\$700 million—and for the real property—\$2.5 billion—that must stay there. If he refuses to do so, we should recoup this sum either by refusing to enforce France's claims against the American gold supply or by requiring France to resume payments on its long-standing war debts to us.

Third, strengthen our sanctions against France and all other countries trading in strategic goods with North Vietnam and Communist China.

But the most effective leverage we can apply to De Gaulle is economic. I therefore suggest that we encourage our Common Market allies to consider creating a new European economic alignment by amalgamating with Britain and the European Free Trade Union countries, thus isolating France economically. Just the threat of this new alignment should be effective.

France is our oldest ally. Our ties of friendship go back to our own Revolution. We all have the warmest friendship for the French people and the greatest respect for the contributions France has made to civilization.

But we, too, have national pride, and should not allow any nation to frustrate our attempts at world security the way France has recently.

THE NLRA AND ITS EFFECTIVENESS

(Mr. O'HARA of Michigan (at the request of Mrs. MINK) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. O'HARA of Michigan. Mr. Speaker, yesterday our colleague, the distinguished and able gentleman from New Jersey [Mr. THOMPSON], discussed the operation of the National Labor Relations Act in an excellent speech before the wiring device section of the National Electrical Manufacturers Association.

As the chairman of the Special Subcommittee on Labor, a subcommittee on which I am privileged to serve, the gentleman from New Jersey [Mr. THOMP-

SON] is a leading authority on the Labor Act. His speech clearly sets forth some of the steps we should take to improve the act.

So that other Members of Congress will have the opportunity to read our colleague's recommendations, I include his speech as part of my remarks at this point in the RECORD:

SPEECH OF HON. FRANK THOMPSON, JR., BEFORE THE WIRING DEVICE SECTION OF THE NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION

The introduction by your Chairman is very pleasant, but it reminds me of the story about the boy who came home from Sunday School and his grand mother asked him what he had learned. The lad replied that he had heard a great story, all about how Moses got his people out of slavery. Moses woke his people early in the morning, and before the Pharaoh knew it, they were across the Red Sea. Then the Pharaoh sent his armored columns and his tanks after Moses, but Moses called on his dive bombers, which hit the bridge when all the Egyptian troops were on it, and they were all drowned in the Red Sea. His grandmother said: "Sonny, they didn't teach you any such nonsense". The boy admitted that that was so, but said: "If I told you the truth, you wouldn't believe it".

I'm glad the Chairman did not tell the truth about me in his introduction, but I will try to tell you some truths, hard though they may be, about the National Labor Relations Act.

As you know, I chair the Special Subcommittee on Labor in the House of Representatives. It is the job of this Subcommittee to "ride herd" on the National Labor Relations Act as it is administered by the National Labor Relations Board. This Committee assignment takes us right into the thick of all the current issues.

Two of the issues which my Subcommittee explored with many witnesses, and about which we proposed amendments, are Section 14(b) and the "Common Situs Picketing" amendment. Should Section 14(b) be repealed, and with it the 19 State "Right-To-Work" laws? Should we adopt a "common-situs picketing" bill and thereby permit a particular union—the carpenters, the electricians—to picket a non-union employer at the building site shared by the non-union subcontractor with other subcontractors, many of whom are union, and whose employees might be expected to honor the primary picket line?

These are controversial matters; but exciting, and very demanding. I am sure the glamor of these and similar assignments had nothing to do with the fact that BOB GRIFFIN resigned from our Subcommittee to accept a Michigan seat in the Senate; that CARLTON SICKLES is resigning to seek the Governorship of Maryland; that RALPH SCOTT is resigning to seek some peace and quiet in his native North Carolina foothills.

These losses make a big gap in our Committee, but fortunately, we have plenty of bench strength: JIM O'HARA from Michigan, whose district runs from Detroit, through the northern suburbs. RICH CAREY, whose 13 children add to the beauty and density of his populous constituency in Brooklyn. JAMES SCHEUER, from the Bronx, who made a distinguished name for himself in urban redevelopment and the building of planned communities prior to his arrival in Congress. On the Republican side we have GLENN ANDREWS of Selma, Alabama; EDWARD GURNEY from Florida; and OGDEN REID from Westchester County, New York—all with great ability.

Collectively, we have a diversity of backgrounds, experience, predilections, and what have you. We share, however, a common concern that the Labor Act work well, and work as Congress intended it to work.

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
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U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

Issued May 27, 1966
For actions of May 26, 1966
89th-2nd; No. 87

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HIGHLIGHTS: House passed labor standards bill. pp. 11046-94

HOUSE

1. LABOR STANDARDS. Passed, 303-93, with amendments H. R. 13712, to liberalize and expand the coverage of the Fair Labor Standards Act. A recommittal motion designed to strike out all agricultural sections from the bill and regarding food processing in certain industries in regard to overtime during peak seasons on highly perishable products was rejected, 168-231. Agreed to amendments to protect young people's part-time agricultural employment opportunities and allow certain wages to be set under the Sugar Act. pp. 11046-94

2. RESEARCH. Agreed to the conference report on S. 944, the oceanographic research bill. pp. 11042-6
3. DAIRY INDUSTRY. Rep. O'Konski said the number of dairy producers is becoming smaller and gave his reasons for this development. pp. 11099-102
4. FOOD FOR FREEDOM. Rep. Harvey, Ind., inserted an article, "U. S. Food and Freedom Policies Argued--Military View Given Priority." p. 11099
5. FARM LOANS. Received a report of GAO on a review of efforts to have borrowers refinance their Farmers Home Administration loans when private or cooperate credit becomes available; to Government Operations Committee. p. 11123
6. ADMINISTRATION. Received from GAO a compilation of recommendations for improving Government operations (H. Doc. 446). p. 11123

SENATE

7. MARKETING. The Commerce Committee reported with amendment, during adjournment on May 25, S. 985, the proposed Fair Packaging and Labeling Act of 1966 (S. Rept. 1186). p. 11001
Sen. Cotton submitted an amendment which would strike from this bill the subsections giving "officials downtown the power to ultimately determine the sizes and weights in which commodities shall be packaged." p. 11008
8. PERSONNEL; PAY. The Post Office and Civil Service Committee reported with an amendment H. R. 14122, the Federal pay bill (S. Rept. 1187). p. 11003
9. DISASTER RELIEF. H. R. 15151, to permit the planting of alternate crops on acreage which is unplanted because of natural disaster, was placed on the calendar with the understanding that it will not be considered until next week. pp. 11001-3
10. RECREATION. The Interior and Insular Affairs Committee voted to report (but did not actually report) H. R. 10451, authorizing transfer of certain Colo. lands from the Interior Department to the Agriculture Department for recreation development. p. D463
11. DAIRY IMPORTS. Sen. Hartke was added as a cosponsor to S. 3273, the proposed Dairy Import Act of 1966. p. 11008
12. SCHOOL MILK. Sen. Proxmire inserted excerpts from testimony setting out the "difficulties the administration's proposed 80-percent cutback in the special milk program for schoolchildren would impose on...Massachusetts." p. 11009
13. FARM PROGRAM. Sen. Metcalf commended and inserted an article, "McGovern Takes Farm Leadership Role." pp. 11016-7
Sen. Scott commended and inserted an article, "Agriculture and Economic Growth," describing the role of the private, as well as the government, sector in insuring agricultural development. pp. 11030-2
14. PATENTS. Sen. Long, La., urged defeat of S. 1809, to establish a uniform national policy concerning property rights in inventions made through the expenditure of public funds. pp. 11040-41

report, the Council will remain in existence for 120 days after the submission of the Commission's report.

All of this is a concrete example of "creative federalism" at work. This legislation will give all parts of our Nation concerned with oceanography—the Federal and State Governments, industry, universities, and other interested institutions—a great opportunity to forge a truly productive program.

Through the creative Federal effort made possible by this bill, national oceanographic objectives can be explored and clearly defined. Effective plans can be made. And a creative, productive mixture of Federal, State, and private involvement can be brought about.

The conference report and the objectives and policies it sets out, and the National Council and Commission that it proposes, constitutes a giant step forward. It can provide that firm legislative base for action so long delayed and so badly needed. I commend it and strongly urge its endorsement by the House.

Mr. HANNA. Mr. Speaker, the House of Representatives will be making a major breakthrough in the field of oceanography when it approves today the conference report of S. 944, the Marine Resources and Engineering Development Act of 1966.

After extensive conference negotiations the Senate and House conferees ironed out the major differences. As a result we now have a practical, but forward looking piece of legislation designed to bring the United States to the forefront in oceanographic research.

The need for a stepped-up program of oceanographic research is, I believe, desirable. Our national security demands we respond to the Soviet Union's aggressive challenge in the "wet war." We must not allow a serious ocean penetration gap to develop in our effort in "inner-space," as the vast ocean environment has come to be called.

The needs for our future economic strength and position strongly dictate that we lead in the world's efforts to tap the great resources of the sea for food, for minerals, for energy, and for potable water. Our concern for scientific leadership calls clearly for an all-out research effort to learn more of the anatomy of the sea; its inner relationships of chemistry, biology, temperature and currents. We also must concern ourselves with the sea's outer relationships between the inner-space of the oceans and the upper-space of the atmosphere which creates the weather conditions that effect all of man's activities.

The oceans of the world, now in expanse of 71 percent of the world's surface, are an area of comparative lawlessness in terms of the new and heretofore unimagined activities and exploitations now taking place. Some have compared this situation to the "wild" west of a century ago. Unless something is done to encourage the development of equitable international law covering this field the possibilities of "shoot outs" on the ocean main streets will be ominously present.

Today, in our own jurisdictional waters we face the threat of more than one "quick draw" McGraw operator and all the headaches of "claim jumping" we experienced in the early west. Just recently San Pedro, Calif., fishermen rightly complained about Russian fishing fleets depleting American fishing grounds. An ugly international situation is smoldering over this incident fanned by our most recent refusal to allow one of these Russian vessels admittance to the port of San Francisco for repairs. This is the type of "maverick" incident we must try to alleviate.

I intend to encourage the National Oceanographic Council, set up by S. 944, to launch an oceanographic expedition.

What I envision is the establishment of a mission similar to the Lewis and Clark expedition. Of course the expedition would be commissioned for relatively short periods of time, with specific research goals. The members of these short-term expeditions would be drawn from the experts in universities, private firms, and Government agencies.

Expeditions of this sort would allow us to move quickly in meeting the research goals to be established by the new Oceanographic Council, without disrupting the fine work now being carried on by existing agencies and institutions.

Such expeditions will serve to encourage cooperation and coordination of activity, and additionally serve to spark the interest and imagination of the American people in this exciting and vital science.

The possibilities and potentialities of the ocean are staggering. I have always felt somewhat chagrined at the irony of our current policies that stress our effort in space, while putting little emphasis on our immediate environment. It never ceases to amaze me how little we know of our oceans. Perhaps because the oceans have always been such an integral part of man's environment we have taken them for granted.

Our motivation in the space effort can easily be translated to exploration of the ocean. Curiosity, potential, national security, and man's desire to learn of the universe in which he lives are motivations as applicable to our planet's oceans as they are to the exploration of the void through which the earth plummets on its ever-continuing journey.

The adoption of the conference report on S. 944 will be a significant step toward providing the machinery to answer man's question about the world in which he lives.

Mr. WYDLER. Mr. Speaker, I am delighted to support this conference report. It is an indication that our Nation's effort in oceanography is about to begin in earnest.

We should keep in mind, however, that this step is only the first in an effort that must be stepped up almost at once to take full advantage of the wealth and material benefits that can flow from a true conquest of the ocean's depths.

I am particularly delighted to inform the Congress that the Governor of the great State of New York, Nelson Rockefeller, has informed me that he will hold

a Governors' conference on oceanography in New York State in the near future. Plans for this conference are getting underway and I personally hope and propose that it will be held on Long Island in New York State. This conference is coming at a particularly important time in the history of oceanography. Recognition of its potential is now a fact, but it is still an infant industry and one that can take full advantage of a conference international in scope.

The New York Governors' conference on oceanography will be the greatest conference of its type ever held and it will marshal the force in New York State and in our Nation to meet the new challenge that we face in being first in the world in the conquest of the oceans.

Mr. MOSHER. Mr. Speaker, I want to compliment the gentleman from North Carolina [Mr. LENNON] for his skillful defense of the essentials of the House position on S. 944, the Marine Resources and Engineering Development Act of 1965, during the conference with representatives from the other body on the disagreements which existed between the two Houses concerning that legislation.

We on this side of the aisle who participated in that conference, and I believe all minority members of the Merchant Marine and Fisheries Committee, are in full agreement in support of the conference report as it is presented to the House today.

In my remarks on the floor of the House on September 20, 1965, during general debate on S. 944, I emphasized that the crucial element in the bill is this, that it places mandatory responsibility squarely on the President to create central coordinating machinery for developing national policy and activities in the ocean sciences and ocean engineering. The bill recognizes the immediate, urgent need for more effective, more innovative national leadership to mobilize and expand our oceanographic programs, for the more vigorous, comprehensive exploration and use of the wonderful resources of the marine environment.

The conference report as presented today maintains fully the integrity of that crucial element in the bill. It does mandate upon the President—rather than merely give him discretionary authority—the responsibility to establish a competent and responsible Commission on Marine Science, Engineering, and Resources which shall report in 18 months or less to the Congress and to the President, with specific recommendations for more effective machinery to do the job which I just mentioned.

This bill also lays the basis for more effective congressional oversight of the national program in ocean sciences and ocean engineering.

And, incidentally, the conference report also in no way modifies the point which we made clear in the RECORD on September 20, that by approving this bill the Congress intends that the Great Lakes shall have equal standing with all our ocean areas as the location of Federal Government programs in the ocean sciences and engineering.

Mr. Speaker, I know of no opposition to the conference report nor any disagreement on our side of the aisle.

We urge your approval of the conference report which resolves the differences between the two bodies concerning S. 944.

Mr. LENNON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. LENNON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report just adopted.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CALL OF THE HOUSE

Mr. BOW. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 111]

Abernethy	Farnsley	Miller
Ashley	Fraser	Moeller
Baring	Hanna	Morton
Blatnik	Hansen, Idaho	Moss
Cahill	Hansen, Iowa	Murray
Celler	Hansen, Wash.	Olson, Minn.
Chelf	Hardy	Pool
Clawson, Del.	Hawkins	Reid, Ill.
Colmer	Hébert	Resnick
Corman	Hull	Ronan
Dawson	Jacobs	Rooney, N.Y.
de la Garza	Long, La.	St Germain
Dickinson	McCarthy	Toll
Diggs	McVicker	Williams
Ellsworth	MacGregor	Willis
Erlenborn	Mackie	Wilson
Evans, Colo.	Martin, Ala.	Charles H.
Evins, Tenn.	Martin, Mass.	Wolff

The SPEAKER. On this rollcall 377 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CORRECTION OF THE RECORD

Mr. MONAGAN. Mr. Speaker, on May 17, 1966, I introduced a statement in the RECORD dated May 17, 1966. This statement was printed on page A2671 of the RECORD under the erroneous date of May 3. I ask unanimous consent that the RECORD be corrected accordingly.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

NATO HEARINGS

(Mrs. KELLY asked and was given permission to address the House for 1 minute.)

Mrs. KELLY. Mr. Speaker, for the past 2 months the Subcommittee on Europe of the Committee on Foreign Affairs has been conducting hearings on the problems and prospects of NATO and of the North Atlantic community as a whole.

In the course of these hearings, our subcommittee has received testimony from a number of executive branch witnesses, from academic experts, and from other private citizens whose distinguished record of public service and knowledge of this subject contributed greatly to our undertaking.

Among the witnesses who testified before our subcommittee were the Honorable Dean Acheson, former Secretary of State and adviser to the President on NATO problems; the Honorable Thomas K. Finletter, former Secretary of the Air Force and our longtime Ambassador to NATO; the Honorable Robert Murphy, former Under Secretary of State and president of the Corning Glass Works International; Prof. Zbigniew Brzezinski, of Columbia University, who was recently appointed to the Policy Planning Council of the Department of State; Prof. Robert Osgood, director, Washington Center of Foreign Policy Research; Johns Hopkins School of Advanced International Studies—and Prof. Robert Strausz-Hupe, director, Foreign Policy Research Institute, University of Pennsylvania.

I am taking the floor this morning to announce that on Wednesday, June 3, at 2 p.m., the subcommittee will be pleased to receive views and recommendations of Members of Congress on the subject under study. It would be appreciated if the Members who desire to appear or to submit statements would notify our subcommittee in advance of that date.

FAIR LABOR STANDARDS AMENDMENTS OF 1966

Mr. POWELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 13712, with Mr. PRICE in the chair.

IN THE COMMITTEE OF THE WHOLE

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, it had agreed that the bill be read by title instead of by section. The Clerk had read through title II of the committee substitute, ending on line 13, page 46, of the bill. Are there further amendments to that title?

AMENDMENT OFFERED BY MR. O'HARA OF MICHIGAN

Mr. O'HARA of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. O'HARA of Michigan: On line 17, page 45, after the period insert the following:

"OPPRESSIVE CHILD LABOR

"Section 213—Section 13(c) of such Act is amended by striking out 'to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, or' and on page 45, line 20, strike out 'Section 213' and insert 'Section 214' and on page 46, line 2, strike out 'Section 214' and insert 'Section 215.'"

The CHAIRMAN. The gentleman from Michigan is recognized for 5 minutes in support of his amendment.

(Mr. O'HARA of Michigan asked and was given permission to revise and extend his remarks.)

Mr. O'HARA of Michigan. Mr. Chairman, the effect of these amendments would be to apply the same prohibition against the use of child labor by agricultural employers that applies to all other industrial employers. These provisions can be found on page 49 of the committee report. To describe briefly the effect of these amendments, it would be to prohibit the use of the labor of any child under the age of 16, except in those occupations where it would not be harmful to the health or welfare of the child, when a child could work at ages 14 or 15 or in an exceptionally hazardous occupation in which a child would not be permitted to work until the age of 18.

Mr. Chairman, 50 years ago a quatrain was published by Sarah Claiborn, which was appropriate to the day. That quatrain is as follows:

The golf links lay so near the mill
That almost every day
The laboring children can look out
And watch the men at play.

Mr. Chairman, 30 years ago the U.S. Congress took steps to end child labor in manufacturing and in mining. At the time they did so there was a great outcry because the managers of these enterprises claimed that they could not operate successfully without the use of some child labor and that, furthermore, such labor was good for children. Not only was it good for them, they said; it taught them the value of a dollar.

But the Congress went ahead anyway and prohibited the use of child labor in manufacturing and mining.

We find to our surprise, some 30 years later, that the mining and manufacturing industries have not collapsed as a result of our action, and that the welfare of children has been advanced, not destroyed.

Mr. Chairman, we have heard on the floor that agriculture cannot get along without child labor, that the harvesting of field crops, out in the hot sun, is good for kids.

Mr. Chairman, I do not think it is any better for a child than working in a mill or a mine. I believe we should correct the wrong that we did 30 years ago when

we carved out this agricultural exemption.

Yesterday we heard that there were going to be a million young people, between the ages of 16 and 21, looking for work this summer, with little hope of finding it. If we want to help them find work, in addition to the amendments we adopted yesterday, we ought to adopt an amendment which would prohibit using 10-, 11-, 12-, and 13-year-olds in agriculture. Then perhaps some unemployed 16- to 21-year-olds can find the jobs they are looking for.

Finally, Mr. Chairman, let me state for those who are not aware of it that this amendment would not apply to any child working for his parent, or a person standing in the place of his parent. It does not apply to such situations in mining and manufacturing under the Fair Labor Standards Act provision.

Mr. Chairman, the quatrain I read no longer applies, but it is true that the fields lay so near the golf course that working children can still look up and see men at play.

This is a simple, straightforward vote on the question of whether this Committee wishes to continue the shameful practice of employing children under the age of 14 in agriculture for persons other than their parents.

Mr. Chairman, I ask that the amendment be adopted.

Mr. DENT. Mr. Chairman, I rise reluctantly and sadly, in a way, because it is not my usual temperament to quarrel with a position taken by a good friend, especially on a matter which appears to be so humane, a question involving children, but I rise to oppose the amendment.

In the first place, I thought we were good enough friends that the gentleman at least would give me the courtesy of talking over the amendment with me and also allowing me to give him the history of the discussions in the committee over the past 3 years, as to the basis for what should be done or not done with respect to young harvest pickers who may go out with their mothers or go out with their fathers to pick strawberries and other ground cover crops. This allows the mother to go out into the fields. Otherwise, if she had to pay some one to stay with the children at home, of course she would have no opportunity to go out into the fields to work.

This sounds as though we are a great big group of ogres, ready to devour the youth of America and pour them into the child labor mills.

I defy any person in this Chamber to show a better record against the use of child labor than mine, during the 34 years I have served.

I do not like sneak punches, and I do not care who throws them. This is a sneak punch to a bill on which we have worked hard. We have worked honestly, I believe, to come before this House with clean hands.

We say to the Members, this is just like the amendment which was put in by the gentleman from Illinois. The House does not know how far it will go. It does not know what it will do.

I will tell the Members what it will do. It will not apply itself to the 1½ percent or the 1.6 percent of the farms we would cover in this modest agricultural bill, but it would cover each and every farm in the United States, including those of the Amish, including those of the Mennonites, including those of the religious groups which have for many, many years had to be given special consideration, since to them farming is not only a way of life and a livelihood but also a religion, tightly tied into their way of believing and practicing their religion.

No Member of this House wants to send a tender young child out into a dangerous occupation. No one wants to send a child on to a farm as a hired hand.

Those who have lived on farms know the situation. I come from a district which has—perhaps excepting Florida, Georgia, California and Arizona—as many voters who are farmers as any other district represented in the Congress of the United States has. I believe I know whereof I speak when I say to the Members that this amendment is not fair.

It is not honorable to come in here at this minute and to try to scuttle this legislation with an amendment which sounds so humane, which sounds so unimpeachable, because of the effort that the man is making and because of the interest involved and the character of the problem.

I refuse to be labeled as a man who would deliberately pass legislation which would injure the youth of this country of ours.

I say to the Members, I should like to have the committee support me and our committee in our stand against the amendment.

Mr. GOODELL. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am glad to yield to the gentleman from New York.

Mr. GOODELL. I commend the gentleman from his statement. I merely wish to say that I agree with him on this amendment and I hope the amendment will be defeated.

Mr. CAREY. Mr. Chairman, I rise in support of the amendment and move to strike the last word.

Mr. Chairman, I am not going to take 5 minutes, but I am going to register some surprise.

I am surprised, frankly, as much as my distinguished chairman is surprised by the offering of the amendment, but I have an even greater degree of surprise that we have come so far and gone so long without doing something about this problem.

I stand here to tell the Members that I did not realize that for 30 years we have not done anything to treat the problem of children in this country working as common laborers, with employees subject to no penalties, when they are used merely for profit and are below the age of 14.

I do not want to come into this well again during the consideration of this bill and speak against the chairman of this subcommittee, but I must ask, aside from the element of surprise, what is wrong with bringing these children under the coverage of humane labor laws?

Mr. DENT. Are you asking me the question?

Mr. CAREY. Yes, I am making you.

Mr. DENT. I will tell you what is wrong with it. It is because there is not a person on this floor that has made a greater study of the agricultural section of this bill. For the first time in history you are surprised that we have not done anything for the children on the farm. You ought to be shocked that we have not done anything for the grownups that work on the farms.

Mr. CAREY. Why can we not do it for both of them?

Mr. DENT. Let me answer you.

Mr. CAREY. All right.

Mr. DENT. We have gone as far as any honest legislator will. He will try to do that which he can do, at the moment that he has to do it. I say to you that if you want to cover agriculture for the first time in the history of these United States, then you have to do it in the area where you can talk intelligently and honestly. I do not know what the effect of it will be. The Secretary of Labor does not know the effect. No agency knows the effect of it at this time in the first effort to cover farmworkers. We are going into all of the farms and saying to them, "You cannot have a family come out and pick crops."

Mr. CAREY. Mr. Chairman, I decline to yield further at this point. I see that the gentleman is attempting to have children work with their mothers in berry-picking and other types of harvesting. I say that this amendment is similar to the act under which we eliminated stoop labor among wetbacks. We eliminated stoop labor among the wetbacks, and I ask why can we not do the same thing for children in America on American farms. I fail to see why we have to wait. If we are going to do something for the first time in the field of agriculture, then why do we not do it for the children of America? It seems to me they need attention. The children below the age of 14 are now working with their parents and going out and laboring for profit. Why in the world do we not cover them first, if we cover anyone at all? I think this amendment cries out for attention. Everybody on this floor should speak to his own conscience and say that if we are not going to cover children in this bill, then this bill does not go far enough, regardless of surprise. I am reminded at this time that it was a long time ago that we passed an amendment to eliminate child labor in this country. It was a constitutional amendment that was passed by the Senate and passed by the House. It is the only amendment which has not been ratified yet because most of the States—most of them—have passed provisions attempting to undo this grievous harm. I hope the amendment will be supported and I urge the adoption of the amendment.

Mr. POWELL. Mr. Chairman, in the interest of completing this as rapidly as possible although not trying to thwart anybody's desire to offer amendments, I would like to request and ask unanimous consent that all debate cease now on this particular amendment. Mr. Chairman, in view of those who are

standing, I ask unanimous consent that all debate close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Washington [Mr. MEEDS].

(Mr. MEEDS asked and was given permission to revise and extend his remarks.)

Mr. MEEDS. Mr. Chairman, I rise in opposition to the amendment and ask unanimous consent to revise and extend my remarks.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan. The education and Labor Committee discussed fully the matter of applying an age restriction to children employed in agriculture during periods when school is not in session. It was our decision then to strike the 12-year-old age restriction from the bill.

It is hard to believe that the Congress of the United States would deliberately legislate youngsters out of a job, but this harmful amendment would do just that. As I said yesterday, thousands of young people in the Pacific Northwest find summer work by picking berries and beans. Over 85 percent of the strawberries in my district, for example, are picked by youths under 16 years of age. And there is a labor shortage for this sort of employment. This amendment would prohibit young people under 16 from working in agriculture during their summer vacations; it would deny these people the opportunity to earn money and to find jobs on farms. The amendment is similar to a bill defeated resoundingly by the House in 1962. There is no sense to this amendment, and it should be voted down.

The CHAIRMAN. The Chair recognizes the gentlewoman from Oregon [Mrs. GREEN].

Mrs. GREEN of Oregon. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am not one who is in favor of any exploitation of children, but my heart hardly bleeds for the people who complain about children going out and picking strawberries and picking beans in the summertime. As far as I am concerned, it would be much better if we were to do something about juvenile delinquency and give them a useful occupation to help them or allow them to earn money in the summertime and continue their education and buy the things they need. We have heard some references to the horror of their being out in the hot sunshine. I suggest that it would be much better for them to be out in the fresh air and the sunshine rather than on the dark corners and in the dark alleys. There is an old saying that idle people get into trouble. Let us allow these youngsters to work for the few weeks they can in the summers.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey [Mr. JOELSON].

(Mr. JOELSON asked and was given permission to revise and extend his remarks.)

Mr. JOELSON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I was not at all impressed by the idyllic description of these happy people, children and mothers and fathers, kids under 14 years of age going out in the golden sunlight to pick strawberries.

Of course, these children are going out to be exploited.

I heard it said on this floor not so long ago that children under the age of 14 years can perform stoop labor better because they are built close to the ground.

Mr. Chairman, if that is the case, let us get the babies out into the field, and be done with it. They can crawl contentedly about, picking crops.

Mr. Chairman, this is a good amendment and I support it.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. SCHEUER].

(Mr. SCHEUER asked and was given permission to revise and extend his remarks.)

Mr. SCHEUER. Mr. Chairman, the President has characterized this Congress as the "Education Congress." It could be described as the "Youth Congress," because the major thrust of this Congress—exemplified in the Elementary and Secondary Education Act, the Higher Education Act, as well as the antipoverty program—is aimed at breaking the cycle of poverty and despair for the youth of this country.

Mr. Chairman, the farm youth of America, generation after generation, have experienced endemic, inherited structured poverty in their lifetime. Indeed, 45 percent of the impoverished families and kids in our Nation live on farms in rural America where the miserable pittance these striplings of 10 and 12 years have earned in stoop labor has but fortified and maintained their life of poverty, not changed or altered it one jot or tittle.

Mr. Chairman, there is no shred of evidence on the record to the effect that stoop labor by these kids has ever given them either the cash or the commitment to emerge from poverty. My colleague from New Jersey has recalled and identified the ancient canard that stoop labor is ideally conceived for kids because they are built so close to the ground. Well, Mr. Chairman, if these 10- and 12-year-olds are built real close to the ground, they are built just as close to desks, too. Let us get them into education and anti-poverty programs full time. Let us break the cycle of poverty on the farms as well as in the cities. Let us make this the "youth Congress" for all of young America by passing this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri [Mr. BOLLING].

Mr. BOLLING. Mr. Chairman, I rise in support of the amendment. None of the arguments made against it impress me. Children under 14 should not work in commercial field or farm away from home any more than in mill, mine, or factory.

(Mr. BOLLING asked and was given permission to revise and extend his remarks.)

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. AYRES].

(Mr. AYRES asked and was given permission to revise and extend his remarks.)

Mr. AYRES. Mr. Chairman, as a former farm boy who earned his first 3 cents stooping to pick a quart of strawberries, I must agree with the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. DENT]. The work did not hurt me one iota.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri [Mr. HUNGATE].

(Mr. HUNGATE asked and was given permission to revise and extend his remarks.)

Mr. HUNGATE. Mr. Chairman, I would like to inquire of the distinguished gentleman from Pennsylvania [Mr. DENT] whether or not under the Bell amendment changing "highly perishable" to "perishable," if under the exemption heretofore described the term "perishable" would in his opinion include fruit such as apples and nursery stock?

Mr. DENT. Mr. Chairman, if the gentleman will yield; yes, horticulturists and the rest.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. POWELL] to conclude the debate on this amendment.

Mr. POWELL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

The question was taken; and on a division (demanded by Mr. O'HARA of Michigan) there were—ayes 24, noes 131.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. GOODELL

Mr. GOODELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODELL: On page 40, lines 3 and 4, strike out the words "(other than an industry described in subsection (d))."

On page 40, line 6, strike out the word "ten" and insert the word "twelve."

On page 40, line 7, strike out the word "forty-eight" and insert the word "fifty-six."

On page 40, line 10, strike out the word "employed" and insert the following: "employed: *Provided*, That in any place of employment in which the exemptions provided in this subsection and subsection (d) both apply to employees, the number of exempt workweeks provided by this subsection shall not exceed ten in any calendar year, which shall be in addition to the ten exempt workweeks provided by subsection (d)."

On page 40, line 11 through page 41, line 13, strike out all of subsection (d) and insert the following new subsection (d):

"(d) In the case of an employer engaged in the first processing of milk, buttermilk, whey, skimmed milk, or cream into dairy products or in the compressing of cotton, or in the processing of cottonseed, or in the processing of sugarbeets, sugarbeet molasses, sugarcane, or maple sap, into sugar (but not refined sugar) or into sirup, the provisions of subsection (a) shall not apply to his employees in any place of employment where he is so engaged; and in the case of an employer engaged in the first processing of, or in canning or packing, perishable or seasonal

fresh fruits or vegetables, or in the first processing, within the area of production (as defined by the Secretary), of any agricultural or horticultural commodity during seasonal operations, or in handling, slaughtering, or dressing poultry or livestock, the provisions of subsection (a), during a period or periods of not more than ten workweeks in the aggregate in any calendar year, shall not apply to his employees in any place of employment where he is so engaged."

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. GOODELL].

Mr. POWELL. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman.

Mr. POWELL. Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. GOODELL] be given 5 additional minutes to explain his amendment.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. POWELL. Mr. Chairman, I also ask unanimous consent that all debate on this particular amendment close at 12 o'clock noon.

The CHAIRMAN. Is there objection to the request of the gentleman from New York [Mr. POWELL]?

Mr. GERALD R. FORD. Mr. Chairman, reserving the right to object, would the gentleman from New York [Mr. POWELL], chairman of the committee, speak a little louder so that Members may be fully cognizant of what his request is so that those Members who want to speak may have an opportunity to stand up so that they may be included in the allocation of time. May I ask the chairman, would it be feasible for the time to be divided equally between the proponents and the opponents rather than allocating a certain amount of time, 3 minutes or 5 minutes or whatever it is, to each and every Member who stands up and seeks recognition.

Mr. POWELL. I am very happy to accept the suggestion of the distinguished minority leader.

Mr. Chairman, I ask unanimous consent that the next 60 minutes be divided between both sides with 30 minutes to each side with all debate finally to close and to come to a vote on the amendment in 60 minutes.

The CHAIRMAN. Does the gentleman from New York include in his request who shall control the time?

Mr. POWELL. I also include in my unanimous-consent request, Mr. Chairman, that the gentleman from Pennsylvania [Mr. DENT] control the time on this side of the aisle.

The CHAIRMAN. And who on the other side of the aisle?

Mr. POWELL. The gentleman from New York [Mr. GOODELL].

Mr. GOODELL. Mr. Chairman, would the gentleman from New York [Mr. POWELL] also amend his request so that the time be limited to 1 hour since there are now only 55 minutes remaining before 12 o'clock noon and it would simplify the problem of allocating the time if the time were limited to 1 hour.

Mr. POWELL. Mr. Chairman, I accept the advice of our distinguished senior colleague.

The CHAIRMAN. Does the Chair understand the unanimous-consent request is now to provide for limiting of debate to 1 hour after the gentleman from New York [Mr. GOODELL] who is now in the well concludes his remarks?

Mr. ALBERT. Mr. Chairman, reserving the right to object, would it be in order to ask unanimous consent, or to include in the unanimous-consent request, a request that the gentleman from Pennsylvania [Mr. DENT] might have 10 minutes in which to reply to the gentleman from New York, and that otherwise the time shall be equally divided between the gentleman from Pennsylvania and the gentleman from New York.

The CHAIRMAN. The chairman of the subcommittee, the gentleman from Pennsylvania, would have control of the time.

Is there objection to the request of the gentleman from New York?

Mr. HALLECK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HALLECK. Would the limitation be on a given number of minutes or a given time on the clock?

The CHAIRMAN. The Chair understands that the request is for 1 hour of debate, including the remarks of the gentleman now in the well.

Does the gentleman from New York mean 1 hour after the present occupant in the well completes his statement?

Mr. POWELL. I renew my request so that there will be no misunderstanding. I ask unanimous consent that the debate on this amendment be limited to 60 minutes, 30 minutes on each side. The gentleman now in the well has control of the time on his side. If the unanimous-consent request is approved, the gentleman from Pennsylvania will have control of the time on this side.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

The Chair hears none, and the request is agreed to.

There was no objection.

(Mr. GOODELL asked and was given permission to revise and extend his remarks.)

Mr. GOODELL. Mr. Chairman, it has been traditional in the past that when we consider minimum wage legislation, we end up in a great deal of confusion on the floor, often, in fact, in seething, swirling, agitated controversy and confusion. This year I thought it might be different, for we are not dividing on partisan or party lines significantly. But I do wish to say that after yesterday, I think we have been living up to our tradition with reference to minimum wage legislation.

This is a proposal that I think is one of the most important as far as this legislation is concerned. As I indicated every time I have spoken, I intend to vote for this legislation whether my

amendments or other amendments are adopted or not. We have made many delicate adjustments in this legislation in the subcommittee and in the committee. They were very necessary because it often is impossible to impose by legislative fiat a just or uniform rule across the land.

Most of us can agree on the objective of reaching minimum wages for all our people as quickly as possible. Some in our midst want no minimum wage legislation, no intrusion by government. Others wish to grab the objectives we seek suddenly, imprudently, and without concern for the consequences on others. In some instances they are oblivious of the consequences upon others, both those they seek to serve, the low-wage earners, and those who employ the low-wage earners. Some objectives in life and in government we just cannot achieve by reaching out and grabbing them. Too often when you do that you end up simply crushing the desired objective in your hand.

My amendment could go under various labels. It could be called the "Consumers Amendment." It could be called the "Small Processors Amendment," or the "Processors Amendment," alone. It could be called the "Small Town Amendment," the "Farmer," or "Small Farmer Amendment."

In simple terms here is the situation we face: Present law provides exemptions for certain types of processors from the overtime provisions of the law. This provision has nothing to do with the minimum wage itself.

The provision of present law is a 14-week period of exemption, unlimited in hours per day or hours per week, and a somewhat different 14-week provision applying to some different commodities and operations, that is limited to a 12-hour day and 56-hour week.

At the outset let me say I believe we should move toward coverage of everyone we can with the overtime provisions, as quickly as we can do it, without causing undue hardship. I had originally proposed to offer an amendment that would restore the two present exemptions of 14 weeks. In order to be just as completely fair as I could with reference to this whole issue, the amendment I have offered is not a restoration of the present exemptions. It is to give two 10-week exemptions that are comparable to the two 14-week exemptions.

Why are these exemptions necessary? When we considered the minimum wage legislation in 1961, we had great debate about this, and we finally set it aside, leaving the exemptions the way they were, and we authorized the Secretary of Labor to undertake a study.

That study was completed in February 1962. It revealed some surprises, I believe, to those who had been agitating to eliminate these exemptions.

First of all, they very clearly determined that food and vegetable processing is inherently seasonal in nature, that most of the seasonal pack is accounted for by highly perishable commodities, and that efforts by processors to reduce

the seasonality of employment have been substantially unsuccessful. I quote from the study:

Although there are specific instances of partial control over the perishability of fresh fruits and vegetables delivered for processing, as discussed above, an overwhelming part of the seasonal pack is accounted for by highly perishable commodities—such as peas, corn, tomatoes, green beans, and cling peaches—for which little or no post-harvest control of perishability is exercised. For these commodities, the canner or freezer must be prepared to process the raw product within a matter of hours upon delivery.

A study was done by some university professors, "confirming without question the fact that the significant canning crops must be canned within hours of harvest, and that any attempt to hold these crops by bulk freezing or cold storage would result in adding to processing costs, thus increasing substantially the prices for these products, aside from the additional considerations of probable loss of quality, texture, flavor, and nutrients as well as waste."

Now, my colleagues, why is this necessary? Many people have indicated that our modern harvesting equipment and our mechanized processes should solve this problem. Perhaps over the next 10 or 15 years developments will come that will completely solve this problem. But none of these developments have changed the requirement that when highly perishable products are brought into a processor they must be processed immediately, usually within 24 hours.

There is an alternative that others have proposed. Why do they not hire more people, so they do not have to use overtime?

The unfortunate facts of life are that more people are just not available in most of the communities where these processing operations are carried on. I can give facts and figures and statistics from innumerable processors in their attempts to find people to work at minimum wages and above minimum wages in these processing plants. They cannot find them, so they must use existing labor, usually surrounding the small towns, largely men and women who want to work for a short period of time and supplement the incomes of their families.

These people will come in and are glad to come in to have this opportunity to work. They will work at times around the clock to save the loss of a crop.

This is the situation we face.

The present bill would provide a 14-week exemption, limited to 48 hours a week and 10 hours a day. I say that the elimination of the 14-week blanket provision in present law perhaps will have the most excruciating effect of all upon these operators, because they simply cannot operate under the 10-hour-a-day and 48-hour-a-week procedure in the processing periods of the peak hour requirements.

This is the reason why I offer the amendment.

Another statement is made by those who oppose this that a man should not need any more than 14 weeks, and even though the hours may be a little bit

tough on him the 14 weeks should be sufficient.

The problem is, for the small processors particularly, in order to make a living they have developed multiple commodity processing. For instance, in New York State—and each region has something comparable to this—they start with peas on June 20; and move into things like cherries on July 10; then green beans, carrots, beets in the summer months; and then corn, tomatoes and so on in the late summer months; and then into frost time with apples, grapes, and other products of that nature. So there is a continuing succession of peak demands for overtime labor.

I believe my proposal is a reasonable one. I believe it makes a delicate adjustment and achieves the delicate balance we should have, moving toward full coverage but giving the smaller processors and the people with a special problem of adjustment an opportunity to adjust over a longer period of time.

Mr. DENT. Mr. Chairman, I should like to take 5 minutes of the 10 minutes reserved for my use at this time.

I believe all of us recognize the danger we get into when we start to take amendments on the floor without copies and without reference to where the language fits within the bill itself.

The proposal of the gentleman from New York [Mr. GOODELL] would do a lot more than provide two 10-week exemptions for overtime for agricultural processing.

What the gentleman seeks to do—and I believe all of us should know it—in his substitute of 7(d), is to eliminate from line 11 on page 40 through line 13 on page 41.

By so doing he would provide a complete year-round exemption for the employees of an employer engaged in the processing of milk, buttermilk, whey, skim milk, cream, butter production, processing of cotton, sugarbeets, and sugarcane in any place of employment where the employer is so engaged.

There is no justification—and there has never been a single request on record in the history of the Department of Labor—for an exemption on a year-round basis for any of these mentioned industries or any industry in the United States.

For the remaining agricultural processing activities in the proposed new 7(d), all the other agricultural people who are the subjects of real exemption presented in 1938, and amended in 1940 by the proposal of the gentlewoman, Mrs. NORTON, we would find ourselves in a position that they would be limited to one 14-week period by the language of his amendment.

He does not cover the whole field of the agricultural processes except when he gives year-round exemption to certain specific, well-defined areas in order to get the backing of certain sectional votes here on the floor.

I was berated awhile ago by one of my good friends because he said I used the words "sneak punch." Well, I am not what Senator SCOTT calls a gut

fighter, but this is not a sneak punch; this is a low blow.

Secondly, there is no legislative history whatsoever to indicate that the Congress which enacted the original FLSA of 1938 ever intended for any process or agricultural endeavor to receive both 14-week exemptions. Historically, if you will review the history of the exemptions, the 14-week exemption which was first put in was spelled out specifically. In 1940 the Congress realized that they had not covered seasonal employees. Therefore, the second 14-week exemption was put into the act.

It was seasonal and in those days we had not yet reached the stage of mechanization and advancement into the holding of foods before processing and during processing by refrigeration, by heat processes, by parboiling, and by other methods of holding vegetables that are highly perishable until they can feed them into the processing system. Therefore, they put through the second no-limit overtime exemption. However, because the language was left without complete explanation on the floor, as I have tried to do in every instance on every section of this bill, they gradually slid into taking both 14 weeks. There is no legislative history. There is no recordation in any of the department files that in any way ever established that the Congress meant for both exemptions to be taken consecutively or ultimately by any single industry. So this Congress at this time, after hearings filling at least three volumes—

The CHAIRMAN. The gentleman has consumed 5 minutes.

Mr. DENT. Mr. Chairman, I yield myself 3 additional minutes.

Mr. Chairman, we find that the testimony throughout all of the hearings does not in any way justify the action presented by the great friend of the bill who professes he is going to vote for it. I think this reminds me of the story of Peter Finley Dunne where he has made a statement about unions and he says, "You know, I am going to permit the unions but only the unions that I like. The ones that I like best are the ones that do not have members, the ones that do not have bylaws, do not have contracts, and do not have officers." That is the kind of a bill my good friend from New York would like to have—one without anything in it. But we are not standing here just to chew our gums or to make a lot of noise.

The situation on this particular amendment is, if we wanted to accept this amendment, we had very alluring arguments made to us by many people. However, to say that the industry needs it is not true, because the records of the department show this. These are the records of the Department of Labor—all industries, 1964; the average work-week in the canned foods industry was 40.4 hours a week. The average work-week in all manufacturing was 40.7 hours per week. The average in meatpacking was 44 hours per week. Here we come before this group and we are doing what I said yesterday. We have a very healthy child, but we are insisting on

making it healthier by giving it pills that are bound to make it sick. That is what we are doing here. This industry has not asked for this exemption except in certain particulars. The Heinz Co. came in and asked for the exemption. They operate in my district. Less than 2 months ago they signed a new contract for 40 hours and for 22½ cents an hour increase. And, when they come in and plead that they cannot survive this, if you cut out all of the overtime, this would not affect them.

Mr. Chairman, most of the canning plants in America have never used the overtime during the harvest season. They use it after they have processed the food and they do it in the freezing of vegetables. They pick vegetables and they blanch the vegetables. They put them in under high refrigeration, and then when the time comes when they have a slackening off in the field crops, they go into the processing of their canned vegetables and fruits. And, they do it, mind you, during the offpeak season.

I oppose the amendment proposed by Congressman GOODELL to restore the two 14-week overtime exemptions for agricultural processing.

First of all, Mr. GOODELL's proposal would do more than provide two 10-week overtime exemptions for agricultural processing. Since his substitute 7(d) eliminates lines 11, page 40 through line 13, page 41, it would provide a complete year-round overtime exemption for employees of an employer engaged in the first processing of milk, butter-milk, whey, skimmed milk, or cream into dairy products or in the processing of cotton, cottonseed, sugarbeets, and sugarcane in any place of employment when the employer is so engaged. There is no justification for this year-round overtime exemption. The Department of Labor surveys show that none of the industries involved need a year-round exemption or have ever asked for it.

For the remaining agricultural processing activities in the proposed new 7(d), a 14-week overtime exemption, unlimited as to hours worked, would apply.

Secondly, there is no legislative history whatsoever to indicate that the Congress which enacted the original Fair Labor Standards Act of 1938 ever intended that two 14-week overtime exemptions should apply to any industry. Congresswoman Norton of New Jersey introduced 7(c) as a substitute for the various exemptions for the handling and processing of agricultural commodities which were offered, including the 13(a)(10) exemption, although both 7(c) and 13(a)(10) were retained in the first bill. The 7(b)(3) exemption was added by the conference committee to take care of the needs of seasonal activities which were not included in 7(c). However, the way the exemptions were written left open the question as to whether they could be taken consecutively.

Throughout the years, the combined exemption has been taken primarily by the canners and packers of fresh fruits and vegetables, and by tobacco stemmers and redryers. The Department of Labor survey shows that in 1960, 92 percent of the fresh fruit and vegetable canning plants, 84 percent of the fresh fruit and

vegetable packing plants, and 99 percent of the leaf tobacco processing and packing plants would not have been affected by a limitation of the overtime exemption to one 14-week overtime exemption, either because they were not engaged in the handling or processing activities for more than 14 weeks of the year, or they did not operate more than 40 hours per shift during any week outside of the peak 14, or they paid the overtime premium rate for hours in excess of 40 a week outside of the peak 14.

As a matter of fact, the Department's survey indicated that, with respect to the great bulk of the employment in the handling and processing of farm products, employers did not use an exemption period of more than 1 week. A 2-week overtime exemption means that the employees are not protected by the 40-hour workweek standard for a period of nearly 7 months in any year. An exemption for this length of time is neither necessary from the standpoint of the employer's needs nor equitable from the standpoint of fairness to his employees.

Since 1949, attempts have been made by the Congress to reduce somewhat the excessively long hours which the exempted agricultural products processing employees are permitted to work. Unlimited hours are indefensible. A 12-hour day and a 56-hour week in a modern canning or packing plant is as outmoded as the 12-hour day in the steel mills. A Department of Agriculture report shows that output per man-hour for all employees in factories processing farm food products increased about 56 percent from 1947-49 to 1963. Thus, about two-thirds as many man-hours as were needed a decade and a half ago were required per unit of output in 1963. This would warrant some decrease in the hours of work of food processing workers. As a matter of fact, the Department of Labor's survey showed that the majority of these workers did not work in excess of 48 hours during a week of maximum employment in 1960.

AMENDMENT PROPOSED BY CONGRESSMAN GOODELL TO THE AGRICULTURAL PROCESSING PROVISIONS OF THE BILL

The amendment proposed by Mr. GOODELL would have the effect of restoring the agricultural processing provisions which the bill seeks to change. It would restore the present section 7(c) of the act, and it would substantially restore section 7(b)(3).

DISCUSSION

In enacting the 1961 FLSA amendments, Congress directed the Secretary of Labor to "study the complicated system of exemptions now available for the handling and processing of agricultural products under the act and particularly sections 7(b), 7(c), and 13(a)(10); and to submit to the Congress "information, data, and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions." The Department of Labor made a detailed study of these exemptions, and the proposed amendments to 7(c) and 7(b)(3) in the committee bill grew out of the Department's study. By restoring these exemptions to their present form in the act, the proposed amendment will also restore all the complexi-

ties, confusion, and inequities that result from the present provisions of the act, and will ignore completely the committee's recommendations on these points.

Under the act at the present time, certain employers may qualify for two different 14-week overtime exemptions, with the result that their employees may be deprived of overtime protections for more than 6 months of the year. Under the committee bill, an employer may avail himself of only a single 14-week exemption. The Goodell amendment would again permit an employer to use two different 10-week exemptions.

Moreover, the committee bill requires that overtime must be paid for hours worked over ten in a day or 48 in a week during the week exemption period. Under the Goodell amendment, some employers would have a complete overtime exemption during the 14-week period; that is, they could work their employees as long as they liked without paying overtime. Certain other employers would be required to pay overtime during the exemption period only for hours worked over 12 in a day or 56 in a workweek. Thus, the Goodell amendment would condone sweatshop operations during the period of exemption.

AN EXEMPTION OF 28 WEEKS FAR EXCEEDS ACTUAL PROCESSING NEEDS

The U.S. Department of Agriculture has stated that over 60 percent of the harvest seasons for commercial vegetables last 4 weeks or less. Ninety-three percent of the harvest seasons last 8 weeks or less. Only 4 of 313 harvest periods studied by the Agricultural Department last over 14 weeks, and none over 18 weeks. The crops whose harvesting dates extend over 14 weeks are beets, cabbage, and spinach—none of which fall into the category of "highly perishable" crops.

It is clearly evident, therefore, that a 14-week exemption period, as provided under H.R. 13712, is more than adequate for the overwhelming proportion of the Nation's commercial vegetable crops.

THE FOOD PROCESSING INDUSTRIES CAN AFFORD TO PAY THE MINIMUM WAGE AND OVERTIME PAY UNDER H.R. 13712

Food processing workers have been discriminated against long enough. In the words of the Administrator of the Wage-Hour Divisions of the U.S. Department of Labor:

Employees working in the handling and processing of agricultural products are just as deserving of minimum pay standards as are employees in other industries.

Such workers should be paid the minimum wage and receive the same overtime practices applicable to other industries. H.R. 13712 will constitute a giant step in this direction. It will help to move them closer to the rank of first class citizens in the world of work.

H.R. 13712 does not completely eliminate the overtime exemptions under the Fair Labor Standards Act. It cuts the present two 14-week exemption periods to one 14-week exemption period and provides that overtime be paid after 10 hours' work per day and 48 hours per week—the straight-time workweek for other industries is 40 hours.

The food processing industry can well afford whatever financial impact may be

involved in narrowing the exemption.

Since 1957, profits of food processing companies have risen more than those of all manufacturing concerns, 83 percent versus 78 percent for all manufacturers—Federal Trade Commission—Securities and Exchange Commission figures.

A series of studies on the impact of minimum wage increases demonstrate conclusively that such increases have not resulted in substantial unemployment and have had negligible upward price consequences. Such studies explode the myths about the adverse effect of minimum wage increases.

Secretary of Labor W. Willard Wirtz has testified, in connection with H.R. 13712, that increasing the minimum wage or removing the overtime exemptions will not reduce employment.

Sales in the canned food industry have risen about 26 percent over the 1957–59 base and net income rose 33 percent. Profit margins have risen from 9.75 percent in 1957 to 11.56 percent.

FOOD PROCESSING IS A MANUFACTURING INDUSTRY—NOT AGRICULTURE—IT IS HIGHLY AUTOMATED

Canning and preserving are not agriculture.

The food processing industries today are major industries, composed of large-scale corporations with plants operating throughout the United States. They can well afford to meet the requirements of the Fair Labor Standards Act.

Food processing has all the characteristics of any manufacturing operation. Food processing is industrial, not agricultural. Canning and processing plants have production lines and machinery like any other factory. And the trend is toward even greater industrialization and greater use of machinery and equipment.

Food processing is not a small business industry. According to the 1963 Census of Manufacturers, over 70 percent of the employees in canning and processing fruits and vegetables were working in establishments employing 100 or more employees. In 1958, this figure was 65 percent.

In 1947, there were 2,220 establishments engaged in fruit and vegetable canning and processing. In 1963, the number had declined to 1,430—a drop of 35 percent.

Thus, the average size of plant in this industry has grown larger and the proportion of small plants has declined. Output is increasingly concentrated in fewer, larger units.

This is a full-fledged industry, engaged in manufacturing operations, and not just little plants doing for the farmer what he might do himself. Almost 40 percent of the employees work in establishments with 250 employees or more.

The plants use elaborate and expensive machinery and equipment. Food processing is one of the most highly automated of all industries today. These automated processes have made possible greater output, at lower cost, while actually using less labor.

Mr. GOODELL. Mr. Chairman, I yield myself 2 minutes.

(Mr. GOODELL asked and was given permission to revise and extend his remarks.)

Mr. GOODELL. Mr. Chairman, the gentleman from Pennsylvania's comments have raised some points that merely confuse the issue.

Mr. Chairman, with reference to the form of the amendment, there is no question as to what the form of the amendment is. It provides exactly what the present law provides, in terms of exemptions, with the exception that it cuts the two 14-week periods to 10 weeks each. There is nothing more involved than that fact. Mr. Chairman, this question about year-round exemptions is as crazy as it can be. This does not apply. The gentleman is well aware that the provisions apply to first processing. This is not the issue.

The gentleman raised some points about the canning industry generally that had nothing to do with the canning and processing of perishable products. The averages which he takes are very adroitly chosen, because they include such things as soup and pork and beans and some special items, as well as a large number of things that have no application to this amendment and which have no exemption. They do not qualify under the present law and they will not qualify under my amendment for exemption for these year-round operations. These exemptions have been used. Because the gentleman from Pennsylvania fully recognizes that the Heinz Co. is primarily concerned with pork and beans and soups and 57 varieties, and these items do not need or get an exemption, the gentleman is giving you a false impression as to how the perishable processing industry feels about this. The small producer needs to survive under these circumstances. They need this kind of exemption and they are asking for it. They asked for it before our committee, and they have been consulting with a number of you gentlemen, telling you the details as to the need for this kind of exemption.

Mr. Chairman, I ask that the members of the Committee support my amendment.

Mr. Chairman, I yield the gentleman from California [Mr. BELL] 2 minutes.

(Mr. BELL asked and was given permission to revise and extend his remarks.)

Mr. BELL. Mr. Chairman, the trend in the last few years has been steadily toward larger canneries. In fact, the number of companies in 1947 were 2,265. The number in 1958 was 1,607.

The trend has been toward larger and more automated canneries. For example, today in California they have union contracts today that place California on the basis of 48 hours a week, 8 hours a day for two 14-week periods.

However, despite the unfavorable basis upon which we have to compete with other States in the Union, California has been producing 62 percent of the tomatoes, in canned peaches, 90 percent of the cling peaches, 60 percent of the freestone peaches, 92 percent of the apricots, and 54 percent of the asparagus.

Yet we have, both on the basis of higher labor costs and shipping costs, been able to survive under this program.

The small processors are usually the plants that do not have a great many products to process. So a 14-week

exemption in most cases is adequate for the small processing plants.

Mr. Chairman, I am opposed to this amendment and ask that it be defeated.

The CHAIRMAN. The gentleman from California [Mr. BELL] has consumed 2 minutes.

Mr. DENT. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. HOLLAND].

(Mr. HOLLAND asked and was given permission to revise and extend his remarks.)

Mr. HOLLAND. Mr. Chairman, perishability has become much less of a problem than in the past. Modern technology and controlled-temperature warehousing largely prevent the danger of spoilage.

The Wage and Hour Administrator has stated:

Perishability is no longer a factor in the handling of many fresh fruits and vegetables by reason of the development of new methods of processing such as freezing and controlled storage.

The new knowledge of postharvest physiology makes it increasingly possible for the canner to bring all fruits and vegetables under some degree of control over perishability. And in some instances, such as pears, the control may be virtually complete. Ripening can be achieved under temperature controlled conditions following extended periods of storage. Cooling or holding rooms are used to hold the peak time pickings and to provide fairly uniform product flow. The "peak and valley" system of raw products is largely a thing of the past.

Today, green beans, for example, can easily be held 7 days between picking and processing. This is true of most all other major processing vegetables, and in the case of fruits, they can be held for weeks before processing.

Most fruits and vegetables used for processing are grown under a processor-grower contract. According to the executive vice president of the National Canners Association, Milan D. Smith:

Today virtually 100 percent of a number of commodities (fruits and vegetables) which find their way to the consumers in processed form are handled through this very excellent grower-processor relationship (pre-harvest contracts).

This gives the canner substantial control over the rate of flow and the condition of the raw product he is to process. Such a contract, for example, specifies planting dates, varieties, cultural methods, the acreage to be delivered, and if necessary, daily delivery quotas.

At Seabrook Farms, one of the Nation's largest growers and processors, "crops are harvested on specified days—sometimes even at a certain hour—to prevent production jam-ups."

Just as in the processing of most other products, fruit and vegetable processing has become rationalized and mechanized.

Canning has become less and less seasonal. This is certified by official Government can-shipment figures as quoted in Canner/Packer, the industry's trade magazine.

In 1938, the same year that the Fair Labor Standards Act was passed, including exemptions for agricultural

processing industries, the National Canners Association boasted:

Canners have helped growers to extend the harvesting season over a longer time. This has been done by the development of varieties that mature at different times of the growing season and by spacing planting dates.

These methods have helped to lengthen the canning period and, in turn, have resulted in longer periods of work for seasonal employees of canning plants.

A new process, involving the use of nitrogen-rich protective atmosphere in trailer trucks or boxcars carrying fresh produce can slow down the metabolism of the food so as to reduce spoilage on long trips from growing field to processing plants or markets.

Mr. GOODELL. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. DOWNING].

Mr. DOWNING. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, this is a terribly important amendment for this industry. I do not know what the situation is with large plants like Heinz but I do know what the situation is with the small canners and processors—I have them in my district.

I tell you, it is important that we have these exemptions. Historically we have had them and we have used them and we need them.

I think it should be made clear at the outset that the canning industry does not seek any exemption from the minimum wage. Fruit and vegetable canners have been under the minimum wage from the time the law was enacted—except for a few small companies that were able to operate within the area production exemption—and this exemption is being repealed by this bill.

What we are asking the Committee to do today is to amend this bill so that the fruit and vegetable canners packing seasonal and perishable products will not be required to pay penalty overtime. We have had these exemptions in the law historically and I really do not understand just why it is sought to take them out at this time. But I ask the Committee to go along with this amendment. I tell you it is necessary and I hope you will provide for this exemption for us by an overwhelming vote.

Mr. POFF. Mr. Chairman, will the gentleman yield?

Mr. DOWNING. I yield to the gentleman.

Mr. POFF. Mr. Chairman, I support the amendment and I would like to ally myself with the eloquent remarks that my Virginia colleague has just made.

Mr. DOWNING. I thank the gentleman.

Mr. FLYNT. Mr. Chairman, will the gentleman yield?

Mr. DOWNING. I yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Virginia [Mr. DOWNING].

We have a number of food canning operations in the part of Georgia that I represent, many of them extremely perishable. We recognize the need for this type of exemption referred to by the gentleman from Virginia. There is

a vast difference in the perishability of various kinds of fruits and vegetables. This exemption is essential if some of the small canning operations are to continue in existence, and make a reasonable profit in their operations. When highly perishable fruits and vegetables, among them pimientos, peaches, and tomatoes, reach the unloading platform they have to be processed immediately. Often times a delay of a few hours will result in destructive deterioration.

Mr. Chairman, I hope the amendment will be adopted.

Mr. DOWNING. I thank the gentleman from Georgia.

Mr. ROGERS of Florida. Mr. Chairman, will the gentleman yield?

Mr. DOWNING. I yield to the gentleman from Florida.

(Mr. ROGERS of Florida asked and was given permission to revise and extend his remarks.)

Mr. ROGERS of Florida. Mr. Chairman, sugarcane mills operate on a seasonal basis, they do not operate year round. They have been exempted from the payment of overtime for this reason, and because they must operate 24 hours a day during the grinding season. Because of the perishable nature of sugarcane, the seasonal nature of its harvesting and processing, the fact that mills must operate 24 hours a day 7 days a week during the season, processors have been exempt from overtime provisions of the act during the processing season only. The Labor Department recognized those conditions in 1962 when it made a report to the Congress entitled "Handling and Processing of Agricultural Products" in which the Department stated that sugarcane is a highly perishable commodity, and must be processed almost immediately after being harvested. Unless cane is processed promptly, it will deteriorate and ruin.

In part I of a 1962 Department of Labor report on the 1962 minimum wage bill the impact of proposals eliminating section 7(c) of the Fair Labor Standards Act which exempts Florida and Louisiana sugar processors is stated as follows:

A 56-hour limitation on the overtime exemptions for sugarcane processing and cotton ginning would have a substantial impact. Eighty percent of the 5,500 sugarcane processing employees in Louisiana and Florida worked 57 or more hours in a peak week of 1960, even though all of the processing establishments operated two or more shifts.

H.R. 13712 exempts overtime payments for a period or periods of not more than 14 workweeks in any calendar year, provided the Secretary of Labor determines the employer's operation is of a seasonal nature. Under H.R. 13712, the employer is required to pay overtime for work performed in excess of 10 hours in any workday, or in excess of 48 hours in any workweek. Thus, H.R. 13712 does recognize the need for exemptions. However, the exemptions contained in H.R. 13712 would not be effective for sugar mills in Florida and Louisiana. In Florida, mills grind for approximately 150 days. H.R. 13712 grants an exemption for only 98 days, calculated over the 14-week period. Thus under the bill our mills will lose exemptions of up to

52 days now contained in the present act, even though those mills process what the Secretary of Labor called in 1962 a highly perishable commodity.

Sugarcane processing time has not changed in 4 years. Florida mills will still process the cane over the same period of time.

The Secretary of Agriculture, who has the authority to set prices for sugar as well as wages for sugar workers, has long determined that it is unreasonable to expect sugar processors to pay overtime during the processing season. The Secretary of Labor has made this same determination in his 1962 report to the Congress.

I urge that the wisdom of both the Secretary of Agriculture and the Secretary of Labor be recognized by assuring these exemptions through the adoption of this amendment.

Mr. DOWNING. I thank the gentleman.

Mr. DENT. Mr. Chairman, I yield to the gentleman from California such time as he may consume.

Mr. BURTON of California. Mr. Chairman, I rise in opposition to the amendment. There are a couple of important factors I would like to mention in this industry. They are as follows:

First. The exemption: Hundreds of thousands of canning and food processing workers are effectively denied overtime pay because of two provisions in the Fair Labor Standards Act: First, for 14 weeks each year, the employer need not pay time-and-one-half rates for overtime no matter how many hours the employee works—section 7(c); second, for an additional 14 weeks each year, the employer need not pay time-and-one-half rates for overtime except after an employee has worked 12 hours a day or 56 hours a week—section 7(b)(3).

For 28 weeks—more than a half year—these workers get no overtime pay. Since canning and other food processing plants using these exemptions rarely operate on an overtime basis as much as a half year, these provisions result in a total overtime exemption.

Second. Committee compromises: In testimony before the General Subcommittee on Labor last year, representatives of labor unions and other witnesses urged the complete and immediate elimination of these exemptions. The subcommittee, in its original bill to amend the Fair Labor Standards Act, proposed a three-stage cutback in the exemption until it would be eliminated.

The Committee on Education and Labor revised this provision as a result of the complaints of canners and other agricultural processing firms. The committee only limited the overtime exemptions. Thus, according to H.R. 13712, for any 14 weeks each year, an employer processing "highly perishable agricultural and horticultural commodities" need not pay time-and-one-half rates for overtime except after an employee has worked 10 hours a day or 48 hours a week.

The House of Representatives should approve the agricultural processing provisions of H.R. 13712, the Education and

Labor Committee's bill, as the very least way of dealing with this exemption.

Third. Here is why the cutback in the agricultural processing exemption is fully justified. The amendment should be defeated:

First. The exemptions have been made obsolete by the widespread use of automation and rapid mechanization in the agricultural processing industries. Even small firms have made substantial capital investment in such equipment. Typically, the commodity is delivered to fruit and vegetable processors a few hours after it is harvested. In the factory, the processes of washing, sorting, cooking or freezing are carried on with highly complex machinery. Spoilage has become negligible.

Second. The new technology has severely cut the number of workers. In the peak months of 1965, some 25,000 fewer workers were employed by the canned foods industry than in the peak months 6 years before.

Third. The payment of overtime would provide a small amount of increased pay to workers who currently get an average of 55 cents an hour less than the average earnings of all U.S. workers. Or more important, it may provide some additional jobs in rural areas where they are desperately needed.

Fourth. The industry can afford to pay overtime rates without increasing consumer prices. Unit labor costs declined 7.3 percent between 1948 and 1962, as compared with a 34-percent increase for the economy, as a whole, in the same period. The Bureau of Labor Statistics reports that in the 1948-62 period output per man-hour increased 86.8 percent; total volume of output increased 78.5 percent; production worker employment declined 11.8 percent.

Fifth. Actually, because of the new technology, no great amounts of overtime are worked. Average seasonal production in the canned foods industry averaged 40.8 hours in 1964 and 41.3 in 1965, according to the Bureau of Labor Statistics. Weekly hours during the season average only one-tenth of an hour more than the average for all American manufacturing.

Problems of scheduling rush work and overtime exist in all industries. Why in the agricultural processing industries alone should such problems be solved at the expense of only the worker? Why in the area of heavy rural unemployment should food processing companies be encouraged to schedule overtime hours and be deprived of economic incentive for hiring the jobless?

There is no justification. The overtime exemptions affecting agricultural processing workers should at least be limited, as proposed in H.R. 13712. Therefore, I urge the defeat of the pending amendment.

(Mr. BURTON of California asked and was given permission to revise and extend his remarks.)

Mr. GOODELL. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington [Mrs. MAY].

Mrs. MAY. Mr. Chairman, I rise in support of the amendment. Like my colleague from Virginia, I represent an area

of small canners, packers, and processors that provide thousands upon thousands of jobs in the Northwest. I would just repeat what I said in my remarks yesterday by reading from the statement unanimously adopted by the Northwest Horticultural Council, which represents the many people involved in the canning and processing business in our Northwest States. I quote:

The total elimination of these exemptions is completely unjustified and impractical. Fruit houses have no choice except to work overtime during the peak season. The fruit must be handled immediately if it is to be placed in the retail stores in the best possible condition and the farmer given at least a chance of obtaining a fair return for his product. All available help is utilized; the employer cannot operate on a 40-hour week. Employers needs the 14 week periods presently provided by Sections 7(b) (3) and 7(c).

Repeal of the present exemption would place an especially heavy burden on the small grower whose fruit is packed in a co-operative packing plant or by an independent commercial packer. Large growers packing only their own fruit would still be entitled to the lower hourly rates provided for agriculture and would not be obligated to pay any overtime.

The Congress, when the Fair Labor Standards Act was adopted, held extensive hearings and gave serious consideration to the problems of agriculture and seasonal industries and wisely provided the exemptions found in Section 7(b) (3) and Section 7(c). The same conditions exist now as prevailed then, insofar as perishable fruits and vegetables and the requirements of other seasonal industries are concerned. One of the objectives of Congress in requiring payment of overtime over 40 hours per week was to spread out the work and to relieve unemployment. This could be and has been done in industry but it cannot be done in agriculture nor in the processing or packing of perishable fruits, where we almost always have a shortage of help at peak seasons. Overtime cannot be eliminated by hiring additional workers. They are not available. The employer has no choice. The reasons which the Congress found to be sound in 1938 and in subsequent sessions when this problem was considered are equally sound today.

The exemptions from overtime should be preserved. H.R. 13712 goes much too far and would have adverse effects on everyone concerned—grower and consumer alike. The consumer will immediately be faced with an increase in the cost of living to the extent the grower is able to pass along costs.

Furthermore, the additional cost of make-up pay for slow, incompetent, handicapped or lazy farm workers and the cost of overtime for packing and processing workers will inevitably result in many growers being forced out of production. This will mean a smaller supply of fruits and vegetables and will directly lead to higher consumer prices. So city residents, as well as the farmers, will lose if these deficiencies in the Bill are not corrected by amendments.

Mr. DENT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DENT. I would like to inquire as to the time schedule.

The CHAIRMAN. The gentleman from Pennsylvania has 16 minutes remaining and the gentleman from New York has 14 minutes remaining.

Mr. DENT. Mr. Chairman, I yield 2 minutes to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, I rise in opposition to this amendment. I would like to point out the original purpose of this type of exemption.

The purpose was to enable those people who were engaged in peak operations to have an exemption so they could handle the bulk of the crops that were coming in.

I certainly agree with the gentleman from New York [Mr. GOODELL] that this could not be done if we were to restrict the people in the canning industry, as was the original intention of the Roosevelt bill. I point out, however, that in making this correction the gentleman from New York has offered to this House something which was almost the same as we had been operating under. The difference is merely 8 weeks.

In the committee I was aware of the problem of the canners and the packers, because I have canners and packers in my district that I represent and was successful in getting the 14-week amendment. I believe they do need some coverage, but they do not need 20 weeks if they are going to be peak operations.

The situation the gentleman from New York has described has gotten away from the concept of peak operations, where they take on this crop and that crop and some other crop, and it then becomes a steady manufacturing industry, and does not need the peak production protection which was the original intent of the bill.

We ought to stick to the original intent of the bill, and a 14-week exemption with 10 hours and a 48-hour week is ample.

I would also point out that almost all of the people we are talking about are presently covered by union contracts, where not even the exemption which is being asked for is utilized completely. We would be punishing the unskilled, unorganized people by this type of amendment.

Mr. GOODELL. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. HORTON].

(Mr. HORTON asked and was given permission to revise and extend his remarks.)

Mr. HORTON. Mr. Chairman, I rise in support of the amendments to expand the exemptions for canning operations and support the position taken by the gentleman from New York [Mr. GOODELL]. I worked very closely with Mr. GOODELL in respect to this problem of providing additional exemption for the food processors and canners.

Mr. Chairman, I caused a survey to be made in my area and I have been informed that because of the circumstances in this particular area, over half of some 62 canning operations using the exemption, needed 20 to 28 weeks of exemption. This demonstrated the need for the 28-week exemption. To reduce the exemption below 20 weeks will be an extreme hardship. I feel it is important that we protect this industry. Therefore I support the amendment as introduced by the gentleman from New York [Mr. GOODELL], and urge my colleagues to support it.

The principal argument given for virtually eliminating the canning overtime

exemptions in H.R. 13712 is that methods now are available for holding perishable fresh fruits and vegetables for a period of time after harvest and before processing, so that it is no longer necessary for canners to operate their plants on an around-the-clock basis and in a concentrated period during the year. The difficulty with this argument is that it is not supported by facts and is contradicted by the testimony at the hearings.

Indeed, the Department of Labor, in the very study which is relied upon for curtailing the processing exemptions, acknowledges that no methods are now available for holding the major perishable fresh fruits and vegetables after harvest and prior to canning. The principal canning crops are subject to rapid deterioration after harvest, and it remains absolutely necessary for canners and freezers to process these commodities, once they have been harvested, as quickly as possible in order to avoid loss of quality and nutrients, and to prevent costly waste. Once the crops have reached the desired state of maturity in the field, it is necessary to harvest them at once and to begin processing operations immediately.

There was some suggestion during the course of the hearings before the House committee that perhaps canners should bulk freeze the crops, and then can them at their leisure later in the year. It was argued that the need for the exemptions could be avoided in this way.

Frankly, my study convinces me this approach would not provide a solution: First, very few canners have available an adequate freezing operation for processing the tremendous volumes of fruits and vegetables that they can; second, even if adequate freezing facilities were available, this approach would require extensive additional transportation of the crop from the field to the freezing facilities, to storage, and then to the canning plant; third, the major canning crops would suffer a loss of quality by this double processing operation, and some crops, such as tomatoes, do not lend themselves to freezing at all; fourth, even if this approach were at all feasible, it would still be necessary for the processor to freeze the commodities with the same degree of haste and under the same conditions that he now cans them. The need for the exemptions would thus remain for the freezing operation; fifth, this double processing, increased transportation, waste, and loss of quality would result in vastly increased costs to the processor and ultimate higher retail prices to the consumer, with no attendant benefit.

I urge my colleagues to consider carefully the arguments on both sides. It is my honest belief that an expansion of these exemptions is both deserved and demanded.

Mr. GOODELL. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. ROUDEBUSH].

(Mr. ROUDEBUSH asked and was given permission to revise and extend his remarks.)

Mr. ROUDEBUSH. Mr. Chairman, I rise in support of the Goodell amend-

ment. I remember, as a boy, when practically every crossroads in Indiana had a cannery. It was a great industry furnishing jobs to many employees. The number of the canneries has greatly decreased, mainly because of the lack of help, the lack of available labor supply, and the seasonable conditions under which they must operate.

I heard the gentleman from Pennsylvania a few moments ago speak about storage capacity. The typical tomato cannery has no storage capacity. The picked food is taken directly from the truck or unloading docks onto the canning lines and canned. The crop can be picked only as fast as it can be canned. Certainly without the exemptions, as proposed by the gentleman from New York in his amendment, I fear a very serious harm would be rendered to the canning industry. I thank and commend the gentleman from New York [Mr. GOODELL] for his proposed amendment.

Mr. DENT. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. O'HARA].

Mr. O'HARA of Michigan. Mr. Chairman, the gentleman from Pennsylvania has detailed the history of the exemption from overtime enjoyed by the canning industry. I believe he has demonstrated that the exemption very possibly was never justified.

I am not going to concern myself with that question. The question before us at this time in history, with the many developments that have taken place in that industry, is whether an overtime exemption of the kind proposed by the gentleman from New York is now justified.

I believe the evidence is clear that it is not. Automation has come to that industry, as it has come to other industries. Output per man in that industry has increased between 1948 and 1962 by 86.8 percent. The employment of people in the industry has declined by 11.8 percent. In the last 6 years, 25,000 less employees have been employed in the industry than before.

Given that situation and given the situation we find on the farms of America, with many marginal operators being squeezed out of farming or needing second jobs to remain in farming, we should not be taking the step suggested by the gentleman from New York, and thereby reducing the number of employment opportunities in the canning industry. Certainly the adoption of his amendment would have that effect.

Mr. Chairman, I urge the committee to stick with the provisions of the bill, which I believe are appropriate to the canning industry at this particular stage of their development, and not go back to a provision which might have been appropriate 10 or 15 years ago but is no longer.

Mr. DOWNING. Mr. Chairman, will the gentleman yield?

Mr. O'HARA of Michigan. I yield to the gentleman from Virginia.

Mr. DOWNING. It is true there has been some automation, but nothing can be done about the weather. These are perishable fruits and vegetables which must be processed immediately.

Mr. O'HARA of Michigan. I agree

with that, but I point out to the gentleman that in actual fact the amount of in-season overtime worked in recent years in the canning industry was only one-tenth of an hour more than in industry as a whole. There has not been any actual need for this amendment shown by the experience of the industry.

Mr. DOWNING. That is not correct in my district.

If the gentleman will yield further, another point is that this will not spread the employment. Those same people are working. It is not possible to get more people than they have at that one time. This would not be spreading employment. It would merely keep the same people on.

If this amendment is not agreed to, it will be necessary to pay them overtime.

Mr. O'HARA of Michigan. I assure the gentleman I do not believe that is the case. I believe the result would be the hiring of more people, or more shifts. Even if that were not the case, I point out that the industry could well afford to pay a little overtime, because the unit labor costs have declined by 7.3 percent in recent years.

Mr. GOODELL. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. GUBSER].

(Mr. GUBSER asked and was given permission to revise and extend his remarks.)

Mr. GOODELL. Mr. Chairman, will the gentleman yield?

Mr. GUBSER. I yield to the gentleman from New York.

Mr. GOODELL. I should like to quickly answer two or three contentions which have been made.

First, let it be absolutely clear that the averages as to use of overtime in the canning industry are taken for the entire canning industry, most of which is not seasonal and most of which is concerned with soups, pork and beans, and other canned products. Less than 25 percent of the industries included in the Bureau of Labor Statistics figures for canning are for seasonal, perishable canning and preserving, so they come up with this one-tenth of an hour increased use of overtime, and it is completely fallacious.

So far as the impact of this amendment is concerned, secondly, if the Members will look at any State chart they will find that in almost every case the canning industries are in areas where there is no surplus employment. I have before me a group, marked with X's, showing where the canning industries are located.

Mr. GUBSER. Mr. Chairman, it is incongruous to me that on yesterday we would extend minimum wage coverage to an entirely new group—agricultural employees, a principle which I strongly favor—and on the same day we restrict that coverage so that 60 percent of the agricultural workers are not included—while today, we are thinking of removing a major part of a traditional exemption which has been proven to be necessary.

Let us not forget: One can automate the canning industry all he wants, but

he can never automate an act of God Almighty.

In my district there is one cannery which can process 1 ton of tomatoes per minute, but God Almighty sometimes brings warm weather and the ripened tomatoes are stacked on the loading platform in such a quantity that a capacity of 2 tons per minute is required to can them before they spoil.

There is no way in the world you can anticipate such an act of God and automate against it.

The canning industry has done a remarkable job of absorbing increased costs and still producing foodstuffs for the American housewife at prices which, comparatively speaking, are very little higher than they were a decade and a half ago. In 1950 you paid 28.7 cents for a 2½-can of cling peaches. Today you pay only 35.2 cents on the average—an increase of less than 25 percent. Yet in this period of time wages paid to cannery workers have almost doubled from \$1.26 per hour to \$2.19 per hour. In California this increase has been from \$1.37 per hour in 1950 to \$2.70 per hour in 1966. Cannery workers have paid more for their raw material because farmers have been required to absorb great increases in the prices of equipment, fertilizers, sprays, and labor. In California the farm wage was 69 cents per hour in 1950, and \$1.29 in 1966—almost double.

In almost every instance the consumer price index for food has seen a slower rise than the consumer price index for all items—this is further proof that the food industry, of which canning is a basic part, has done a good job in keeping prices down while absorbing costs which, percentagewise, far exceeded increased prices.

The canneries kept food prices down by good planning which includes automation and increased output per man-hour. They also absorbed these costs by accepting a lower profit margin.

The canning industry, according to the latest figures available has a low net profit of only 1.7 percent of sales—one of the lowest such ratios in all industry.

How can you ask canners, already on such a low profit margin, to absorb a sudden cost increase for overtime when they cannot anticipate such a need. An act of God causes the need. It cannot be anticipated nor can you automate to absorb it.

Obviously such increased costs will result in instability at the marketplace and a rise in consumer prices.

I point out that this amendment is a compromise. The law now allows two 14-week exemptions. Two 10-week periods is a cut of almost 30 percent. Is it not fair to say that this amendment is a reasonable compromise?

Mr. DENT. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. PUCINSKI].

(Mr. PUCINSKI asked and was given permission to revise and extend his remarks.)

Mr. PUCINSKI. Mr. Chairman, I rise in opposition to the amendment.

The actual average weekly hours worked in food processing and canning, in peak periods, are less than those in

other industries dealing with perishable products whose workers are covered by Fair Labor Standards Act.

The food processing industry works less overtime, on the average, than other manufacturing industries dealing with perishable products. We are not talking here about people working in the fields picking crops; we are talking about people working in factories.

The meat and poultry industries deal with a perishable product. Yet these industries are fully covered by the Fair Labor Standards Act, even though they work more hours, on the average, than industries processing farm products. In the peak months of July through October 1965, average weekly hours worked in canning and preserving were markedly less than those worked in meatpacking in each of these 4 peak months.

Since 1958, average weekly hours in canning—except seafood—have steadily declined in each of the 4 peak months, by as much as 4 hours a week.

The annual average workweek in 1965 in canned foods was only 40.7 hours, as against 41.2 in all manufacturing, and 42.2 in meatpacking.

Average hours worked in canning have been less than the average hours worked in meatpacking in every year since 1959. Moreover, average weekly hours have declined since 1951 in canning; they have risen in meatpacking. Yet meatpacking has no exemption.

The Committee on Labor and Public Welfare, on May 25, 1965, stated that the average number of overtime hours worked by production workers in manufacturing industries in 1964 was 3.1 hours. By contrast, in canned and preserved foods—except meat—the average number of overtime hours in 1964 was 2.7. For 1965, the corresponding figures are 3.6 for manufacturing and 2.9 in canning. The spread has widened.

Since the canning and preserving industry, according to official Government figures, is working fewer overtime hours than all manufacturing industries, or the meatpacking industry, it is clear that:

First. The burden of overtime is not substantial except for a few weeks during the year; and,

Second. The cost of meeting full overtime requirements of the Fair Labor Standards Act is minimal for the entire canning industry.

The cost of meeting the overtime requirements under H.R. 13712—which permits work up to 10 hours per day and 48 hours per week without overtime pay—would be even less.

And another conclusion is equally obvious: In view of the long-term decline in hours worked in food processing, even during peak months, the industry has sufficient labor to meet demand.

Testimony before our committee furthermore shows that productivity has increased by 8 percent in the canning industry.

ATTACHMENT 7: PRODUCTIVITY IN THE FRUIT AND VEGETABLE CANNING INDUSTRY: INDUSTRY STATEMENTS

1. "The canning industry has a remarkable productivity record. Since the end of World War II the annual rate of increase has averaged about 8 percent. This is almost three

times the rate of growth achieved by American industry as a whole. Through efficient management the production of canned fruits and vegetables per man-hour has doubled in the last 15 years, making more canned foods available at low retail prices. Consumers have been quick to see the advantages of this situation and have increased their consumption of canned foods continuously over the years The 1961 pack of canned vegetables required only half as much labor per case as the average pack 12 years ago. This means that the increase in productivity was roughly 8 percent a year."

(William A. Free, Sr., 1963 President, National Canners Association. Address at the 60th Annual Convention of the Tri-State Packers Association, in Baltimore, Maryland, Dec. 3, 1963. *In The Canning Trade*, Jan. 13, 1964, pp. 46, 47).

2. "Between 1948 and 1961 in the United States, the average increase in productivity was three percent per year, expressed in terms of production per man-hour. The increase in productivity in the canning industry, however, has been about eight percent per year."

(Milan D. Smith, Executive Vice President, National Canners Association. Address at the 30th Annual Convention of the Ontario Food Processors Association, Dec. 10, 1963. *In The Canning Trade*, Jan. 13, 1964, p. 22).

3. "Output per man-hour in factories processing fruits and vegetable . . . rose faster than the average for all farm foods."

(Output per Man-Hour in Factories Processing Farm Food Products. U.S. Department of Agriculture, Agricultural Marketing Service. Technical Bulletin No. 1243. May 1961, p. 10).

This industry should be placed on a more equitable footing with all other American industries.

I urge defeat of the amendment.

Mr. GOODELL. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. HARVEY].

(Mr. HARVEY of Indiana asked and was given permission to revise and extend his remarks.)

Mr. GOODELL. Mr. Chairman, will the gentleman yield?

Mr. HARVEY of Indiana. Yes, I yield to the gentleman from New York.

Mr. GOODELL. Mr. Chairman, I suppose I will have to answer this for each speaker. They seem to have a set line, but when they give the canning industry statistics, they are talking about everything from soup to nuts. They are not talking about anything whatsoever with reference to preserving the perishables affected by this amendment and the only products affected by this amendment.

Mr. HARVEY of Indiana. Mr. Chairman, I would like to comment in furtherance of the comments by my Indiana colleague, in regard particularly to the tomato canning industry.

Mr. Chairman, there is one thing that should be understood with regard to this industry, especially in the Middle West. Your peak processing period lasts for only a short time and is a period during which these canneries process enough tomatoes to put them into the business of canning food products for which tomatoes are the basic ingredient during the rest of the year. So, you have essentially two types of operation within the same factory.

Mr. Chairman, it is to this one critical processing period to which we should

devote our attention and give it the consideration it deserves.

Mr. DENT. Mr. Chairman, I yield such time as he may require to the gentleman from Montana [Mr. OLSEN].

(Mr. OLSEN of Montana asked and was given permission to revise and extend his remarks.)

Mr. OLSEN of Montana. Mr. Chairman, in recent years the number of canning plants in Montana has dropped from five to two plants at present. One ceased operation in Billings within the last 6 months.

This has been caused presumably by high raw products costs and increases in the cost of supply items. Profits in the canning business are meager at best and even nominal cost increases can make a cannery unprofitable.

In the case of H.R. 13712 the increase in the minimum wage—to which we have not objected—will raise wage costs 12 percent. If we should be further affected by the proposed reduction in exemptions from overtime a canner in our State estimates the action would further increase his payroll 18 percent. The two would make a total increase of 30 percent.

Purpose of the overtime is, of course, to spread employment. There are 2,500 people in Red Lodge where the cannery in question is located, a rural and small county. During the 60-day seasonal operation of the cannery from late June to late August, all available workers are already employed either at the plant, or construction, farms, or ranches. Even if he wished, the canner could not hire more people. Many of the plant's summer jobs are filled by high school and college students to earn money to continue their education.

One product of the plant is canned peas. To preserve their quality they must be canned within 4 hours of the time they are picked. And, as everyone knows, peas mature on Saturday, Sunday, and holidays, just like every other day.

The plant has been struggling, year by year to stay in business. They have higher than usual raw product cost. Their cans, packing cases, labels, and many other items cost more than in other areas because of their location. To face a 30-percent increase in wage costs on top of these other disadvantages will make their problem of survival even more difficult.

I wish to preserve our canning industry and in view of these facts I am in favor of restoring the two 14-week exemptions of H.R. 13712 in substantially the same form that exists in the present law.

Mr. DENT. Mr. Chairman, I yield 3 minutes to the gentlewoman from Hawaii [Mrs. MINK].

(Mrs. MINK asked and was given permission to revise and extend her remarks.)

Mrs. MINK. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I would like to restate some of the very salient points made by the chairman of our subcommittee in opposition to this amendment.

Mr. Chairman, I believe it is very important to remember that this double 14-

week exemption which is currently in operation was something that was not intended by the original drafters of the bill when they considered the amendments years ago. I believe this is a very important argument against this amendment.

Further, the second point which the chairman raised was the fact that the 14-week period, according to evidence submitted to our committee, is fully adequate to meet the needs of the agricultural food processors in terms of their peak seasonal periods.

Mr. Chairman, the language of the bill very carefully takes into account the question of seasonality and the question of perishability.

Mr. Chairman, I believe it is important for this committee to accept the fact that food processing is very much like all other kinds of industrial work. There is no reason, aside from the seasonality of the 14-week period and the perishability of the product, to treat these workers in the canneries any differently than the ordinary industrial workers in our communities.

Mr. Chairman, food processing today is highly mechanized. We have all kinds of very sophisticated equipment, now, in our canneries.

Mr. Chairman, let us consider the new equipment listed in a recent issue of the magazine, *Food Engineering*. Listed there one will find discussed machines to count chunk items up to 500 a minute by electronic eye and to pack the items in cans. There are machines to core tomatoes at the rate of 4 tons per hour. There are machines to slice mushrooms at the rate of 1,200 pounds per hour. There are machines to sort small fruit by high-speed electronics. There are machines to separate beans at the rate of 2,000 pounds per hour, and there are machines to package raisins at the rate of 250 boxes per minute.

Mr. Chairman, very little of this kind of work today is actually done by human hands. Therefore, since this is actually an industrial activity, if certainly should come under the protection of overtime compensation.

Also, Mr. Chairman, I am moved by the fact that in the overall consideration of this bill—the persons we have covered under the minimum wage in the retail business, in the restaurant business, in the hospitals, and in the laundries are the women of America.

Similarly, under this canning provision, we are dealing again with a large group of women who are the underpaid, overworked workers in our canneries today.

Mr. Chairman, I believe these women particularly deserve the consideration of this House so that after having to work from 7 in the morning until 5 in the evening that after 5 o'clock they be paid time and a half and after 48 hours a week receive this same consideration. I urge this amendment be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. GOODELL].

Mr. GOODELL. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. ANDERSON].

(Mr. ANDERSON of Illinois asked and was given permission to revise and extend his remarks.)

Mr. ANDERSON of Illinois. Mr. Chairman, I think it is very apparent at this point in the debate on the amendment offered by the gentleman from New York [Mr. GOODELL] that the speakers for and against this amendment have not divided along partisan lines. It is largely on the basis, I think, of sectional interest. Those who come, as I do, from great areas of the country where we grow highly seasonal and highly perishable row crops—and in my own area of Illinois where we grow tomatoes, asparagus, and corn—we realize just exactly what this bill is going to do unless we adopt the provisions of the Goodell amendment.

It does not do much good to stand up before this body and cite statistics comparing the canning industry with the meat packing industry or with other industries in general and to cite statistics about the improvements in the output per man hour. That does not do anything as the gentleman from Virginia so aptly pointed out. It does not do anything to automate the weather. There is not much that we can do to legislate against the vagaries of the weather.

The gentleman from Pennsylvania says the industry has not asked for this exemption except in certain particulars—well, of course, that leaves more than just a little bit of a loophole. Let me tell the gentleman that the canners and processors of perishable and seasonal crops in my area have come to me and have said that the effect of this bill without the amendment of the gentleman from New York would be disastrous. They are not asking for everything. We are coming down from two 14-week exemptions to two 10-week exemptions. This is a compromise.

We recognize the fact, as the gentleman has pointed out, that there has been automation and an increase of output per man hour. We are not asking, in other words, to stand pat. We are asking here for a reasonable and fair compromise.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman.

Mr. DENT. You name one canner—one canner in your area that has used the 28 weeks of overtime—name one.

Mr. ANDERSON of Illinois. Mr. Chairman, under permission to revise and extend my remarks, I wish now, for the RECORD, to answer the question propounded by the gentleman from Pennsylvania [Mr. DENT], inasmuch as time did not permit me to give him an answer on the floor. The Rochelle Asparagus Co., of Rochelle, Ill., which is located in the 16th Congressional District of Illinois that I represent, did last year use a full 24 weeks of its exemptions under the wage and hour laws. Additionally, I would like to point out to the gentleman from Pennsylvania that this is 4 weeks more than we are requesting under the Goodell amendment. Therefore, it should be absolutely clear that this amendment is needed by the canning industry in the Middle West.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GOODELL. Mr. Chairman, how much time do we have remaining on this side?

The CHAIRMAN. The gentleman has 6 minutes remaining on his side, and the gentleman from Pennsylvania [Mr. DENT] has 5 minutes remaining.

Mr. GOODELL. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. CEDERBERG].

(Mr. CEDERBERG asked and was given permission to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman.

(Mr. HUTCHINSON asked and was given permission to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Chairman, present law extends to processors of perishable fruits and vegetables two periods of exemption from the overtime provisions of the wage and hour law. For one period of 14 weeks the exemption is complete. For another period of 14 weeks the exemption is limited to 56 hours of work in any 1 week. The bill as it comes to us from committee would strike from the law the period of complete exemption and would reduce the limited exemption period to a 48-hour week. The amendment offered by the gentleman from New York [Mr. GOODELL] would again establish two periods, one completely exempt from overtime provisions for not to exceed 10 weeks, and the other with a limited exemption as to 56 hours of labor in any 7-day period for not more than 10 weeks. I support the amendment.

An employer of labor engaged in handling and processing perishable agricultural or horticultural commodities in their raw or natural state is in a unique situation, unlike most employers. He cannot control the flow of goods to be processed into his plant. When the fruit or the vegetable is ripe for harvest it must be immediately harvested and processed. Where most employers can space out their supply and thus avoid the economic penalty of overtime, the fruit and vegetable processor cannot. When the crop comes to him he must receive it and process it if the farmers who produced it are to be paid.

Nature is not so cooperative as to ripen crops of fruits and vegetables on a 40-hour week. It has already been pointed out in debate that the problem is not solved by saying the processor can employ more people. In the rural communities where fruit and vegetable processing is done, the additional labor is simply not available.

Nor is it sufficient to say that even if the exemptions were entirely repealed all competitors would be treated equally. They would not be. The uneven treatment of nature interferes. One processor, located in one section of a State, can experience a crop coming into his plant during a single week, while his competitor, situated in another part of the State, is enabled to receive the crop during a 2- or 3-week period. A flexibility such as recognized by these overtime exemptions is essential.

Processors are ordinarily not single-crop employers. There are several perishable crops ripening at different times during the season. It is necessary there be a sufficient period of exemption to accommodate them all. For 28 years there have been two 14-week periods of exemption. The Goodell amendment will reduce each of these periods to 10 weeks. It will, nevertheless, preserve the flexibility needed by these employers who cannot control the flow of goods to be processed into their plants.

Mr. CEDERBERG. Mr. Chairman, I rise in support of this amendment, this is an anti-inflation amendment. Personally, I prefer the present law as it is.

No one has spoken for the consumer on this subject. Let me tell you that if these exemptions are removed from the seasonal processors and the seasonal processor is required to pay these additional expenses, he only has three choices:

First. He can, if his profits are good enough, absorb them, and there are few who can do that.

Second. He can raise the prices of his commodities, and obviously he is going to do that.

Third. If competition will not allow him to do this, he will go out of business and as the gentleman from California said, we will have bigger and bigger canneries. I do not think that would be in the best interest of the consumer.

If you are interested in taking care of the consumers in this country who are going to have to bear this added cost—then you will support this amendment. It is a good amendment. Historically it has been working well in the industry. This is a compromise—it provides for 10 weeks instead of 14 weeks and that makes a great deal of sense.

I do not see how anyone, when we recognize the problems of inflation that are abroad in the land today, and if you will look at the last cost-of-living index—going up and up and up—if this industry is going to be required to bear this additional cost, the consumer from every congressional district will bear the costs of increased food prices.

Now I have very few canneries. I have a sugar processing company that will be involved. Its costs will go up.

So I say to you this is an anti-inflation amendment. Unless it is adopted, it is going to cause a continued increase in the cost of living.

Mr. McCULLOCH. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman.

Mr. McCULLOCH. Mr. Chairman, I would like to join in the statement of the gentleman from Michigan [Mr. CEDERBERG] and in the statement of the gentleman from Illinois [Mr. ANDERSON]. There are probably as many tomatoes picked and canned in the two congressional districts of northwestern Ohio as in any place in the Union. You have put your finger right on the heart of the problem of the growers and the canners.

Mr. Chairman, I urge the adoption of the amendment.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from California.

Mr. TEAGUE of California. I compliment the gentleman on an excellent statement. I, too, support the amendment and hope that it will be adopted.

Mr. CEDERBERG. I can only say to my colleagues that if you are interested in the price of commodities to consumers you will support this amendment.

I yield back the balance of my time.

Mr. BELL. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from California.

(Mr. BELL asked and was given permission to revise and extend his remarks.)

Mr. GOODELL. Mr. Chairman, I yield to the gentleman from Ohio.

(Mr. LATTI asked and was given permission to revise and extend his remarks.)

Mr. LATTI. Mr. Chairman, I wish to join our colleague the gentleman from Michigan [Mr. CEDERBERG], in the statement he has just made. Coming from one of the districts that undoubtedly produces as many tomatoes as any congressional district in the United States, I wish to say that his statements are absolutely correct.

Mr. DENT. Mr. Chairman, I yield to the gentleman from California.

(Mr. COHELAN asked and was given permission to revise and extend his remarks.)

Mr. COHELAN. Mr. Chairman, I rise in opposition to this amendment.

[Mr. COHELAN addressed the Committee. His remarks will appear hereafter in the Appendix.]

Mr. DENT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. SISK].

Mr. SISK. Mr. Chairman, I rise in opposition to this amendment. The amendment goes much further than what I anticipated would be offered with reference to the canning industry.

I have a substantial canning industry, and, as far as I am concerned, I think our area produces more tomatoes than any other place in the United States. The fact is that there is no tomato season in America today that uses up to the present allowable period in this bill of 14 weeks in a season in the canning of tomatoes. In fact, I have the list and the chart showing the required so-called peak periods in the canning of fruits and vegetables of all types and kinds.

The truth of the matter is that in most cases it runs only from 6 to 12 weeks.

I have discussed this question with the canning industry of California as well as canner representatives from other areas. I do not blame them for wanting as broad an operation as they can get and as wide open as they can get it. But the facts are that when you look at the record of past performance and the total number of weeks those canneries operated in perishables this last year and the year before—1964, 1963, 1962, 1961, and 1960—there is simply no justification whatsoever for an exemption beyond the 14 weeks allowed in this legislation.

Mr. COHELAN. Mr. Chairman, will the gentleman yield?

Mr. SISK. I yield to the gentleman from California.

Mr. COHELAN. I wish to compliment my colleague from California on the statement he has just made, and to go one step further. While I am going to support the committee bill and the provisions that are in it, I would like to see the exemptions eliminated. The committee has been very generous in compromising the issue in order to get votes to support the bill. But I think the record made by Mrs. MINK and others should make it clear that exemptions in this industrial food processing field is a special and exceptional benefit.

Mr. GOODELL. I yield to the gentleman from Alabama.

Mr. GLENN ANDREWS. Mr. Chairman, I rise in opposition to the amendment. I do not like minimum wage bills at all, but we have had them for some time. My position on this amendment represents the position I have taken all along on this bill. I chiefly oppose minimum wages where the purchasing power is unable to absorb higher prices. This is involved when we bring under minimum wages purely local businesses. Low purchasing power in certain areas will surely phase out and close many businesses and create unemployment, when it is impossible to pass along higher prices to the public. This is true in all low income States and and thousands of low income pockets in every State.

I do not see, in this business of canning, when we already have a national minimum wage law; when we can raise prices and pass along the extra costs in the processing of these vegetables, to a regional or national purchasing power, why any unemployment is involved at all. Canning coverage is in line with the former minimum wage bills. I oppose the amendment, not that I approve minimum wages, but in order to dramatize or point out the difference between this and former minimum wage bills.

Mr. DENT. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. PEPPER].

Mr. PEPPER. Mr. Chairman, I rise in opposition to this amendment.

The question presented here is whether or not the consuming public of the United States has a right to ask men and women—and they are mostly women, I believe—who work in the processing of canning of food in its raw or natural state in many of our States, to make the sacrifice of working longer than an ordinary working day for any protracted period without being paid for overtime.

I believe in general the people, many of them heads of families, who work in the food processing industries of this country have the same right to a normal working day and the same right to fair basic compensation, that the other workers of this country have.

This bill exempts the employer from paying overtime to workers who work in the fields. I hope that exemption will be limited as time goes on. But when the food gets into the processing plant, into

the packing house, or into the cannery, the people who work on it there are engaged usually in an assembly line process an industrial operation. I see no reason why the people who shall later enjoy that food should ask these people—as this amendment would have them do—for 2½ months to work as many hours a day as might be required—even eighteen or more—and receive no overtime whatsoever; and for the second 2½-month period, 10 weeks, to receive no overtime unless they worked more than 12 hours a day, 56 hours a week. Why have we a right, as consumers, to ask those people to make that sacrifice? When they are among the lowest paid workers of the country?

Yet the bill before us recognizes that there are problems in these processing and canning operations, as I do, and for a 14-week period requires the payment of no overtime until the worker has worked more than 10 hours in a day and more than 56 hours in a week.

I think this is a fair and reasonable concession to these important industries and the amendment should be defeated.

CALL OF THE HOUSE

Mr. POWELL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Ninety-five Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 112]

Ashbrook	Hansen, Iowa	Pike
Bandstra	Hardy	Reid, Ill.
Burton, Utah	Hébert	Resnick
Clawson, Del.	Huot	Rivers, S.C.
Colmer	Jacobs	Rooney, N.Y.
Corman	MacGregor	Thompson, N.J.
de la Garza	Mailliard	Toll
Erlenborn	Martin, Ala.	Williams
Evans, Colo.	Martin, Mass.	Willis
Evins, Tenn.	Miller	Wilson,
Fraser	Moeller	Charles H.
Garmatz	Morton	Wolff
Hanna	Moss	
Hansen, Idaho	Murray	

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. PRICE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 13712, and finding itself without a quorum, he directed the roll to be called, when 393 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from New York.

(Mr. GOODELL asked and was given permission to revise and extend his remarks.)

Mr. GOODELL. Mr. Chairman, we have reached the point of voting. Let me say very simply that apparently a great many of the comments made in objection to this amendment are from what might be termed window-box farmers. We have a serious situation in the farm areas with reference to this problem of perishable commodities.

My proposal is a compromise. It does not restore the full 14-week periods. It provides for two 10-week periods comparable to the exemptions that are provided for overtime in the present law. The processors are presently covered by the minimum wage. This is simply an amendment to help them adjust over a period of time to full inclusion of overtime for their workers.

I would point out that the statistics that have been used over and over again with relation to the alleged fact that we do not need this are overall canning statistics. They include everything from soup to nuts that go into cans. These are the Bureau of Labor statistics for all of the pork and beans and every other item that is canned. When you consider perishable items alone, they do need this amendment. The amendment is concentrated on perishable commodities. It is a critical amendment, and I ask for your support of it.

Mr. DENT. Mr. Chairman, I yield to the gentleman from Wyoming.

(Mr. RONCALIO asked and was given permission to revise and extend his remarks.)

Mr. RONCALIO. Mr. Chairman, H.R. 13712 to amend the Fair Labor Standards Act is, in my opinion, essentially a good bill. However, I find it most objectionable in its design to cut in half the present 28-week provision exempting agricultural processing employees who are working on perishable products.

There is little that I can add to my previous statement on page A2014 in the CONGRESSIONAL RECORD of April 6, 1966, but I do want to reaffirm my position in support of the proposition that this exemption should remain unchanged.

I have every reason to believe, Mr. Chairman, that this provision will not only work a hardship on the processors of perishable products, but that it will also jeopardize the very existence of companies such as Big Horn Canning Co., located in the sparsely populated area of Cowley, Wyo., where as a physical and practical matter labor is not available during the season of harvesting and processing of perishable quantities. The original intent of the overtime provisions of the Fair Labor Standards Act, as I understand them, is to encourage employers to seek out unemployed people in the labor market rather than continue operation with already overworked and fully employed people. In situations such as the one at hand, the labor market is already exhausted and the result is to place such companies in an uncompetitive position in an extremely competitive industry.

For this reason, Mr. Chairman, I am sincerely hopeful that my colleagues will vote to retain the present exemption.

In this connection, I would like to take this opportunity to insert for your consideration a memorandum from the Rocky Mountain Cannery Association, along with the very excellent letter from Reynold H. Peterson, president of the Big Horn Canning Co., which summarizes the situation at hand; also, the letter I sent to the members of the Dent subcommittee on this subject:

BIG HORN CANNING CO.,

Cowley, Wyo., February 14, 1966.

Re Jas Roosevelt H.R. 10518; PATRICK McNAMARA S. 1986.
Hon. TENO RONCALIO,
House of Representatives,
Washington, D.C.

DEAR TENO: The Dent Subcommittee of the House Committee on Education and Labor is presently reviewing the wage and hours bill that was reported to the House last session. This means that all sections of the legislation are open for reconsideration.

(1) I am fearful that the above bill will be rewritten so that 7(b)(3) and 7(c), that allow canners of seasonal and perishable fresh fruits and vegetables 28 weeks of exemptions from overtime so that a single 14 week period of exemption limited to 10 hours a day and 48 hours a week would be available. The House bill would further restrict the exemption to what someone that knows nothing about it to what they call "highly perishable" commodities.

(2) Would repeal the "area of production" exemption.

(3) The House bill would raise the industrial minimum wage to \$1.40 an hour in July, 1966; \$1.60 an hour in July, 1967; and \$1.75 an hour in July 1968, and would place agricultural labor under a minimum wage of \$1.15 in July, 1966, and \$1.25 an hour in July, 1968.

(4) The Senate bill would require the payment of double time after 48 hours a week this year, 47 hours next year, 46 hours the following year, and 45 hours thereafter, unless exemptions otherwise apply.

1. Congress recognized the necessity for the seasonal canning exemptions when the law was passed in 1938 and Congress has resisted every effort since that time to repeal or modify these provisions of the FLSA. The processing of perishable agricultural crops requires prompt handling from the field and through the cannery. Ripening is controlled by nature and crops must be canned without delay when ready. Quality can only be achieved by this action and the consumers' interest must be protected.

2. Canning is an industry including many relatively small businesses located in rural agricultural environments and should not be subjected to the labor standards or urban industrialization.

3. The imposition of penalty overtime at any time during the canning of fresh perishable agricultural products would not be effective in spreading employment as the industry presently offers seasonal jobs to available qualified workers to the maximum extent practical.

4. The seasonal exemptions apply only to perishable crops that must be processed when harvested. Highly perishable crops such as peas, corn, green beans, tomatoes, peaches, apricots, cherries and plums cannot be stored for later canning.

5. The full 28 weeks authorized by the present law are needed in handling the seasonal crops that periodically mature from spring through the fall.

6. The proposed legislation will add significantly to canners' cost of operation without achieving the stated purpose "to reduce unemployment and to strengthen the economy by a better distribution of work presently performed." Higher prices to the ultimate consumer will necessarily result.

Last season working under 7(b)(3) and 7(c) as is, we were unable to secure the help needed at our Cowley, Wyoming plant. Which you can confirm with the Wyoming Employment Service if you wish.

Teno, I am asking your support in retaining the exemptions that now exist as it would be impossible for us to operate under a time and one half for overtime over forty hours per week.

We have been operating our plant at Cowley for 40 years, since 1926, and we have

many letters in our files from young people, fathers and mothers thanking us for the employment we have given them and their children during the summer, which made it possible for them to earn enough to go back to college.

Please don't let the only canning plant in Wyoming be legislated out of business.

I am sure you understand our problem and would appreciate hearing from you and if we can depend on your support in retaining our present exemptions. I am enclosing a list of members of full committee.

My best regard to you and your staff.

Yours very truly,

REYNOLD H. PETERSON.

Memorandum to: Senators and Congressmen from Rocky Mountain region.

From: Rocky Mountain Canners Association. Re H.R. 8259 and S. 1986.

Our industry in the rocky mountain area is genuinely worried about H.R. 8259 and S. 1986 which would seriously curtail the long-established overtime exemptions under the Fair Labor Standards Act for processors of fresh fruits and vegetables.

Presently there are two exemptions. One is found in Section 7(c) of the Act which gives processors of seasonal commodities 14 weeks without penalty overtime. The bills would repeal this section.

The other exemption is in Section 7(b)(3) which permits 14 weeks of freedom from overtime up to maximum of 12 hours per day and 56 hours per week. The bills would require time and a half after 10 hours per day and 48 hours a week.

While I know you are aware of some of the reasons why Congress, provided these when passing the Act in 1938 I should like to allude to them for the mere purpose of presenting the matter to you. Firstly, fruit and vegetable ripening is controlled by nature. They require immediate processing if high quality canned food is to be produced. Three-fourths of our canning plants are situated in small communities where all available labor is used during harvest and processing time. Employment cannot be spread because additional workers are not available. Thus the usual objective of such legislation could not be achieved but canners would be seriously penalized in a matter over which they have no control.

Profits are meager in our industry and we asked our members what per cent of their 1964 profit would be taken by higher labor costs were the two bills to be enacted.

Following is a tabulation of those responding so far:

Number of canning companies:	Percent of 1964 profit taken by higher labor cost
3-----	100
2-----	75
1-----	25
1-----	17

And one smaller processor said 2%.

During the last thirty years the number of canning plants in Montana, Wyoming, Colorado and Utah has dwindled from some 50 canneries to 23 at present. It is evident that such an effect on profits would present a serious financial problem to our industry.

While our industry is not relatively large, we purchased fresh fruits and vegetables from 2,669 growers in the four states last year, paying them \$5,095,790. During the operating season our plants had 6,059 employees and paid an annual payroll of \$5,196,484. Other purchases totaled \$10,759,576 or a total of \$21,051,850 excluding taxes. In the rural areas this economic stimulus is of considerable importance.

We would appreciate if you will give careful consideration to opposing the proposed curtailment of these exemptions.

NELSON W. ALDRICH,
Executive Vice President, Rocky Mountain Canners Association.

AUGUST 6, 1965.

(Mr. DENT asked and was given permission to revise and extend his remarks.)

Mr. DENT. Mr. Chairman, I wish to say to the House that there are 14 weeks of overtime allowance in this bill as we now have it, without the amendment for perishable goods.

The factor of perishability as a justification to continue the wage and overtime exemptions under the Fair Labor Standards Act is no longer applicable.

In the early days, the canning industry was a salvage operation in which raw products not sold on the fresh market went into tins. Today, this is changed. With few exceptions, every ton of product packed is produced especially for canning through direct ownership by the processor or through contractual arrangements between growers and processors.

As a result of such vertical integration three major developments have occurred which have reduced perishability to a minor problem:

First. The first is the creation of specialized varieties and strains of fruits and vegetables. They have stressed big yields, reduced waste, staggering of planting, and a host of other characteristics which have made possible stability in the handling and the availability of the raw product.

Second. The chemical industry has produced a series of products intended exclusively for processing which have been designed to increase yields and durability, and to fit the particular processing procedures and requirements.

Third. Tremendous strides have occurred in the mechanization of raw product production. Planters, transplanters, cultivators, harvesters, viners, viner-feeders, truck loaders, and many other items all help to speed raw products to the processing plant with minimum effect on the condition of the product. Corn, carrots, beets, bush beans, peas, lima beans, and so forth, are now picked by machine instead of by hand.

Fourth. Cooling or holding rooms are maintained to hold the peak time pickings and provide a uniform product flow. Today, green beans can easily be held for 7 days between picking and processing. All other major processing vegetables can be held for a like period with the exception of peas and corn. In the case of fruits, many can be held for weeks and months, such as apples and pears, before being processed. The same is true of olives and pickles.

In addition to the vast changes already mentioned, the easier movement of the raw products from the fields to the processing plants have removed the need for the exemptions.

We have in this country over 3 million miles of highways and freeways which are constantly being improved. Likewise, there have been considerable improvements in truck equipment. Truck construction employing strong, lightweight materials, and hydraulic drive minimizes damage to fragile shipments. Moreover, the availability of large fleets of trucks on flexible but precise schedules eases the flow of the products. Mechanical refrigeration in trucks offers the highest possible degree of flexibility ranging from normal to subnormal

temperatures. The use of trailers now makes it possible to park the product in trailers in the loading zones of the plant for convenient unloading at a later time.

Thus, the revolution that has characterized changes in agricultural handling and processing is equally applicable to the trucking of the product.

In short, the relationship between growing and processing has become scientific and rational since the era of peaks and valleys that characterized the flow of the raw products when the FLSA exemptions were enacted in 1938. In view of the developments cited, which reduce perishability problems almost to the vanishing point, there is no need nor justification for continuing these exemptions. Certainly then, the 14-week exemption, with overtime after 10 hours a day or 48 hours a week, as provided in H.R. 13712, is more than adequate.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. GOODELL].

The question was taken; and the Speaker announced that the "nays" appeared to have it.

Mr. GOODELL. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. GOODELL and Mr. DENT.

The Committee divided, and the tellers reported that there were—ayes 145, noes 162.

So the amendment was rejected.

The CHAIRMAN. Are there any further amendments to title II?

AMENDMENT OFFERED BY MR. DOWNING

Mr. DOWNING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DOWNING: On page 41, after line 20, insert the following new subsection:

"(e) Section 13(a)(5) of such Act is amended by inserting '(A)' immediately after 'any employee employed in', and by inserting immediately before the semicolon at the end of such section the following: ', or (B) the processing of any kind of shellfish or crustacea'."

Mr. DOWNING. Mr. Chairman and Members, I suppose one could call this the oyster shucking, crab picking amendment.

Human beings make mistakes, and in my opinion the Congress made a mistake in 1961 when it included for the first time the shellfish industry under the minimum wage.

The effect of my amendment would be, if it is adopted, to immediately put back to work hundreds—yes, thousands—of people who are now on the welfare rolls because they were forced there by the imposition of the minimum wage.

Prior to 1961 all employees engaged in onshore shellfish processing were exempt from coverage under the Fair Labor Standards Act, and I believe that developments in the shellfish industry over the past 5 years have demonstrated that we should restore this exemption for employees engaged in the processing of shellfish.

The application of the minimum wage to the shellfish industry in 1961 has

forced the industry into a severe economic crisis. Many shellfish businesses have had to close down over the past 5 years because they were simply unable to pay the statutory costs. Serious unemployment has resulted throughout the industry because so many firms have been forced to lay off their employees.

In my own district, for example, which is the First Congressional District of Virginia, the Virginia Crab Packers Association has compared employment levels in 1961 with 1965.

I ask Members to listen to this: Among the 16-member businesses, 907 crab pickers were employed in 1961. In 1965 the total employment had dropped to 589, and they tell me it will drop another 25 percent this year.

I will not take my colleague's time to cite employment figures for all of these firms, but I will take one of them as an example, and I think it is a pretty fair example. One seafood firm in Virginia employed 100 crab pickers in 1961 and 60 in 1965. They told me by telephone yesterday they are now employing 35. They have gone from 100 employees to 35 employees in 5 years' time. This is not just true in Virginia. The hardships exist in almost every State. For example, in North Carolina the crab packing industry shut down completely for a while when the minimum wage escalated to \$1.25 last year. Crabbing is a major factor in North Carolina's commercial fishing industry and it is obviously symptomatic of the severe economic pressures.

Mr. LENNON. Mr. Chairman, I wonder if the distinguished gentleman from Virginia will yield to me.

Mr. DOWNING. I will be glad to yield to my friend from North Carolina.

Mr. LENNON. Mr. Chairman, I want to commend the gentleman from Virginia for his very informative, knowledgeable, and persuasive reasoning as to why his amendment should be adopted. Unfortunately, Mr. Chairman and ladies and gentlemen of the House, the membership of this House does not recognize the problem confronted by the seafood industry on shore in shelling of crabs, picking of shrimp, shelling of oysters, and shelling of scallops and other seafood of that kind. It is a fact, as the gentleman so clearly stated, in North Carolina when the minimum wage was escalated to the point it is now for this particular segment of our total seafood industry we had to close down the industry. We hear these impassioned pleas to use the resources of the sea to feed the hungry of the world. We hear this every day on the floor of this House and on the floor of the other body and in the news media. Yet we are inevitably heading in the direction where we are going to thwart and destroy our own efforts to feed the hungry of the world with the resources of the sea. I hope the ladies and gentlemen of this House will seriously consider this amendment which is necessary to all of the Atlantic coast, the Gulf coast, and the Pacific coast as well.

Mr. Chairman, I commend the gentleman for bringing this matter to the attention of the House, and I hope they will respond favorably.

Mr. DENT. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I will only take half a minute to say to the House that this is not new material added to the bill by our committee. What this amendment does is it strikes from the present minimum wage law provisions put in in 1961. This industry is already covered under the law as it now exists. This amendment would remove this industry from the provisions of the act. In order to clear up the matter of the closing down of the crab industry, I would like to give you the facts. A typical report received on the closing down of the crab processing industry in North Carolina referred to by the previous speaker shows that 18 plants shut their doors on September 3, 1965, because of the increase in the minimum wage to \$1.25, throwing 1,800 workers out of work. An investigation disclosed that 17 of the 18 plants had actually closed, but all except one had reopened within the month and the last one opened within 6 weeks. All they had done was a little cleaning up at the plants.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. DOWNING].

The amendment was rejected.

AMENDMENT OFFERED BY MR. GOODELL

Mr. GOODELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODELL: On page 40, lines 3 and 4, strike out the words "(other than an industry described in subsection (d))."

On page 40, line 10, strike out the word "employed" and insert the following: "employed: Provided, That in any place of employment in which the exemptions provided in this subsection and subsection (d) both apply to employees, the number of exempt workweeks provided by this subsection shall not exceed ten in any calendar year, which shall be in addition to the ten exempt workweeks provided by subsection (d)."

On page 40, line 11 through page 41, line 13, strike out all of subsection (d) and insert the following new subsection (d):

"(d) in the case of an employer engaged in the first processing of milk, buttermilk, whey, skimmed milk, or cream into dairy products or in the compressing of cotton, or in the processing of cottonseed, or in the processing of sugarbeets, sugarbeet molasses, sugarcane, or maple sap, into sugar (but not refined sugar) or into sirup, the provisions of subsection (a) shall not apply to his employees in any place of employment where he is so engaged; and in the case of an employer engaged in the first processing of, or in canning or packing, perishable or seasonal fresh fruits or vegetables, or in the first processing, within the area of production (as defined by the Secretary), of any agricultural or horticultural commodity during seasonal operations, or in handling, slaughtering, or dressing poultry or livestock, the provisions of subsection (a), during a period or periods of not more than ten workweeks in the aggregate in any calendar year, shall not apply to his employees in any place of employment where he is so engaged."

(Mr. GOODELL asked and was given permission to revise and extend his remarks.)

Mr. GOODELL. Mr. Chairman, this amendment is somewhat similar to the previous one. It would do essentially the same thing, with one major exception.

My previous amendment eliminated a reduction in the hours per day and the hours per week.

Under the present law, the 14-week exemption, the processor is permitted the 12-hour day and 56 hours per week.

Mr. Chairman, in my original amendment I attempted to restore this 12-hour-day and 56-hour-week exemption.

Mr. Chairman, this amendment conforms to the provisions of the present bill. It will limit the hours to a 10-hour day and to a 48-hour week. It would extend two 10-week exemptions to the processors.

Mr. Chairman, I believe this is a reasonable amendment and I would hope that it can be accepted as an even further compromise of my last proposal.

Mr. Chairman, I yield back the balance of my time.

Mr. DENT. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, this matter has been discussed rather thoroughly. It is just another probe into the same wound. It is the same amendment that we had before us previously. We have already gone through the motions of a vote. It is the same 20-week amendment, proving again the statements made a while ago that they could not exist unless they had unlimited overtime and that they can exist with limited overtime.

Mr. Chairman, after due deliberation and consideration of the matters contained in the amendment, I ask my colleagues to vote down the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. GOODELL].

The question was taken, and the chairman announced that the noes have it.

Mr. GOODELL. Mr. Chairman, I demand the tellers.

Tellers were ordered, and the chairman appointed as tellers Mr. GOODELL and Mr. DENT.

The Committee divided, and the tellers reported that there were—ayes 70, noes 127.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. COLLIER

Mr. COLLIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLIER: Page 37, after line 2, insert the following new paragraph:

"(2) Section 13 of such Act is amended by inserting after paragraph (11) the following new paragraph in lieu of the paragraph repealed by section 206(b)(1) of this Act:

"(12) any employee employed by any establishment engaged in self-service, coin-operated laundering or cleaning if such establishment has an annual gross volume of sales of less than \$40,000; or."

The CHAIRMAN. The gentleman from Illinois [Mr. COLLIER] is recognized for 5 minutes in support of his amendment.

Mr. COLLIER. Mr. Chairman and my colleagues, we have been told that this bill does not cover the mom and pop type of business. While that is substantially true, actually it is not.

So my amendment would give you an opportunity to eliminate what is a rank

discrimination in this concept of coverage of the minimum wage bill.

Let me cite an example that is typical to illustrate what I mean. Take a typical type of small business block in any town or village in the United States, and let us say we have a drugstore, a hardware store, an independent food store, perhaps an appliance store, and a laundromat.

Under this bill, if the delicatessen, the appliance store, the food store, and the hardware store does a volume of business of up to \$100,000 gross in a year, they would not be covered under the bill. With that I have no argument. But the laundromat on the same block could do \$20,000 gross a year and it is in fact covered.

I do not think I have to go any further in trying to convince one that this is, in fact, discrimination and defies or flaunts the so-called ma-and-pa concept of immunity under this bill.

To give you a little idea what the broad picture in this area is, the coin-operated laundry and drycleaning industry comprises 36,000 stores in the United States, and it is operated by 25,000 owners. The industry's annual gross volume for coin-laundry service is currently \$525 million. This averages less than \$15,000 annual gross per coin-operated store. The gross for coin-operated drycleaning is estimated at \$225 million in 9,000 stores. The average annual gross for each coin-dry-cleaning store would be about \$25,000.

What are we talking about in connection with this thing? Incidentally, I would say that were it not for the fact that the laundry business per se apparently is satisfied with this bill—and if they are, I do not want to disturb them—the coin-operated laundry people are not. The only reason I have singled this out and established—

Mr. ARENDS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] Sixty-seven Members are present, not a quorum.

Mr. ALBERT. Mr. Chairman, I move that the Committee do now rise. On that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. ALBERT and Mr. ARENDS.

The Committee divided, and the tellers reported that there were—ayes 3, noes 108.

So the motion was rejected.

The CHAIRMAN. A quorum is present.

The gentleman from Illinois [Mr. COLLIER] is recognized.

Mr. COLLIER. Mr. Chairman, I regret that the minority whip made the point of order, because I have explained my amendment as well as I know how, and now we have a larger group to listen to the eloquent opposition that I anticipate from the chairman of the committee.

Be that as it may, and seriously, I believe this does represent an area of discrimination in the concept which the committee has otherwise carried out in excluding the "mom and pop" type of business. I would hope by putting this

restriction on it—as I have done in this amendment—that this House will adopt the amendment in fairness to one small segment of the business community that is being discriminated against in this bill.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment.

I recommend that the Members review the remarks on this particular subject made yesterday. The record is very clear. The committee rejected the same proposal.

I ask the Members to vote against the amendment.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

(Mr. GROSS asked and was given permission to revise and extend his remarks.)

Mr. GROSS. Mr. Chairman, I should like to have an explanation from someone as to why there have been the dilatory tactics which have just been undertaken on the part of the majority. Is it a disposition to stretch out consideration of this bill, perhaps to go into the night?

Only a short time ago, we had a quorum call, initiated by the majority, and now we have just had a delaying tactic in the nature of a teller vote on a motion for the Committee to rise.

What is taking place? Can the gentleman tell me?

Mr. DENT. I would say that I am probably the wrong man to answer this question, because we are not indulging in the practice. However, when one fights fire one fights fire. There was proposed a dilatory tactic. We found this was needed.

Mr. GROSS. I thought the stretchout started on the majority side a short time ago with a quorum call.

Mr. DENT. We are not interested in stretching the argument. I say to the Members on the other side of the aisle, we have no amendments. We are ready to rise and to vote, if the other side is ready.

Mr. GROSS. Ready to do what?

Mr. DENT. We are ready to vote.

Mr. GROSS. The vote just taken by the majority was against the Committee rising.

Mr. DENT. We had before us an amendment. The gentleman would not accuse us of being unfair to the gentleman, would he?

Mr. GROSS. Does the gentleman from Illinois wish to contribute to this?

Mr. COLLIER. Mr. Chairman, I should like to contribute to a discussion of my amendment, but not to the issue specifically in question here.

Mr. GOODELL. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from New York.

Mr. GOODELL. I am a bit surprised to hear someone call an effort to have a quorum on the floor to hear an important amendment a dilatory tactic. In this instance there was a request for a quorum call, to have a quorum of our Members, a mere 100 in the Committee, to listen to important debate and to dispose of important amendments. The Chair counted 65 Members present. We should not be voting on important legislation of this nature with 65 Members, out of the 435.

Anyone who wants to insist that we have more than 65 of the 435 Members present is not engaging in dilatory tactics.

Mr. DENT. Mr. Chairman, will the gentleman yield, so that I may answer.

Mr. GROSS. I yield to the gentleman from Pennsylvania.

Mr. DENT. If we did not know each other around here, and if this were not an open book, we would understand this great plea, but we know the Chairman cannot go into your cloakroom and get the boys.

Mr. GOODELL. Mr. Chairman, will the gentleman yield?

Mr. GROSS. In just a minute.

It seems to me there were a goodly number on the majority side who were parked out in the Speaker's lounge a little while ago.

Mr. DENT. That is right.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. COLLIER. If we may, I should like to briefly get back to my amendment.

The distinguished gentleman from Pennsylvania said that this amendment, which I have offered, was disposed of yesterday. The fact of the matter is that there is a marked difference between the amendment which I offered and the one which was defeated yesterday, which would have generally embraced the entire area of hospitals and all types of laundries.

My amendment is specifically directed to the so-called "mom and pop" laundromat. I do not believe it was disposed of yesterday. I would have had some reservations about voting for the amendment which the gentleman said was disposed yesterday—in fact, I did not support it.

I believe the area to which my amendment is directed is a different area. I believe this bears a rank discrimination, in dealing with one segment, as I said before, of the local business community.

I would hope that the committee would see fit to adopt the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. COLLIER].

The amendment was rejected.

Mr. POWELL. Mr. Chairman, in order to save time, according to the desires of my good friend the gentleman from Iowa [Mr. GROSS], I should like to ask if there are any more amendments to title II.

Mr. GROSS. What do I have to do with that?

The CHAIRMAN. There are three at the desk.

Are there further amendments to title II?

Mr. POWELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, how many amendments are at the desk now?

The CHAIRMAN. There are three amendments at the desk, but the number depends on whether or not others desire to offer any.

Mr. POWELL. Mr. Chairman, I ask unanimous consent that all debate on title II close in 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. WATSON

Mr. WATSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WATSON: On page 44, delete lines 3 through 15.

Mr. WATSON. Mr. Chairman, I should first like to apologize to my esteemed friend who has been handling the bill for not presenting him with a copy of this amendment. However, it is a very simple one, just deleting section 210 so as to allow the restaurant industry to remain beyond the purview of the minimum wage law, as they have been over the past year.

I want to assure all of you that in this drama of fighting poverty or breaking the cycle of poverty there has to be someone who comes along and appeals to you to show some consideration for the consuming public. I have no financial interest in the restaurant industry at all. I am a patron of it, just as most of you ladies and gentlemen are. However, I hope we will be a little considerate of the unique factors involved in that particular industry.

First of all, they are not in competition with any other industry. They are in competition with the housewife. If the prices become so high in the restaurants as to become prohibitive, then you are going to find the worker carrying a lunch pail or else returning home in order to eat. Secondly—and I think this is an important consideration—the restaurant industry is not engaged in interstate commerce by and large. Simply because we have a little restaurant down in South Carolina or in your home area does not mean that it is in competition with the Waldorf in New York or the Brown Derby in Los Angeles. If you have a need for a meal, you are going to eat where you are. Additionally, I am afraid this bill does not take into consideration the differences in the costs of living in the various areas and the various States of this Nation.

Also, I hope you will take into consideration this fact: If you are going to increase the minimum wage for the dishwasher in the restaurant, then you likewise are going to have to increase what you pay for the domestic servant in the home. In this area and in California and in other areas perhaps you pay \$60 or \$70 a week for a domestic servant, but down home the economy neither permits nor demands such a salary. Our cost of living is much below that of California. I think it is unfair for you to try to impose a minimum on South Carolina or on any other area which might have a lower cost of living than they have in so many other States of this Nation.

Let me assure you in making this statement or proposing this amendment I am not doing so at the request of the restaurant industry. In fact, I have received a number of requests from waitresses, those who are working in the restaurant industry, saying, "Do not put us under this minimum wage legislation. We are

harassed enough and we are fearful about the detrimental effect it will have on the business of the various restaurants, and ultimately we might even lose our jobs."

Let me say in closing that we in South Carolina are concerned about elevating the salary level of all of our people. I have made the statement repeatedly that I would rather have one employee overpaid than two underpaid, but I am afraid passage of this legislation will result in the loss of jobs rather than in an elevation of the standard of living of these people.

We in South Carolina are trying to do something about those who are unskilled. Of our own volition, as I have pointed out earlier, we have established technical educational centers—even prior to the Federal Government getting into the business—in order to retrain our people, those who are displaced by automation or other factors. We are seeking to better equip those who are unskilled in order to enable them to get higher paying jobs.

Let me appeal to you again to consider the effects of this legislation on the buying public and also I hope you will realize the restaurant industry is in a unique position. They are in competition with the home. You can raise your prices only so high, and then it will be prohibitive. The worker, the very person you are trying to help, is going to have to pay higher prices in order to get lunch at the noon hour.

Mr. Chairman, let me say this in conclusion: If there is an inequity in California insofar as minimum wages are concerned, let California take care of it. If you have a problem in New York and the other States of the Union insofar as minimum wages are concerned, then you take care of that. But we are trying to do the best we can for the people in South Carolina commensurate with the financial ability of our business enterprises.

Mr. Chairman, I believe we would be doing a great injustice to the dining public and the local restaurant operator if we pass this particular section.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman from Missouri.

(Mr. HALL asked and was given permission to revise and extend his remarks.)

Mr. HALL. Mr. Chairman, I arise to commend the gentleman from South Carolina for proposing this amendment and supporting it so ably. I can say little in addition. However, I do have a letter at hand from a small restaurateur in Branson, Mo.—family owned and operated, which sets forth clearly total gross receipts and annual net receipts, number of people employed, and total wages paid (including the family), and all pertinent factors. The writer, Mr. Ladd, owner and salaried employee in his own food-service business in a land of tourists and retirees, further points out passage of this law without such an amendment, would result in: first, reduction of 15 to 9 employees; second, elimination of all part-time and summertime employees—college students.

Mr. Chairman, I strongly support this amendment.

Mr. DENT. Mr. Chairman, of all of the areas that are covered in this legislation, no area of coverage has received more attention nor has there been more cooperation between those who work in the restaurants and the food service industries, and those who operate or own or manage such institutions.

Mr. Chairman, we have had absolutely no complaint. No one, except one or two Members of this Congress, have taken it upon themselves as individuals to fight for an elimination of all of the restaurant workers. We are, in fact, in this bill covering only 425,000 of the 1,753,000 employees in the restaurant area.

Mr. Chairman, under the amendment put in by the individual from Illinois yesterday that number would be cut down to probably a little less than 300,000 coverage in the entire industry.

Mr. Chairman, how can we talk about injury to the restaurant business? Let me just read to the members of the committee a letter given to me by one of my good colleagues from Louisiana who is a Member of this Congress. It is addressed to him. He brought it over to me. He said, "I want to do something to help this woman." Also, he said, "I want to do something to help the waitresses, but I want you to try to preserve some balance so that the small restaurant can stay in business."

Mr. Chairman, it was upon that kind of premise that this committee operated. It was exactly along that line that we drafted the provisions of this section.

Mr. Chairman, we have tried to help the really underpaid waitresses and waiters. We have also tried to keep the industry within a position of competition.

Mr. POWELL. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from New York.

Mr. POWELL. Mr. Chairman, I want to take this opportunity to compliment the gentleman from South Carolina as one of the great legislators here, and I am sure he is representing the people of his district as it should be represented.

Mr. Chairman, I just wanted to add my sincere congratulations to him in proposing the amendment. The gentleman from South Carolina is a member of the party that freed the slaves and closed the black people to its breasts in love and respect. It is his party which helped to pass the great Civil Rights Act of 1964 which could not have passed without bipartisan support.

Black people enjoy a greater measure of social equality today all over this land because of his party's actions. If it had not been for his party, black people would not be sitting in the dining rooms of democracy eating with their white brothers.

Surely, the gentleman from South Carolina wears his party badge with pride. He can be even more proud that he carries the unusual distinction of representing during his period in Congress both of our two great political parties, but the party whose banner he now carries is the party where many black people have enjoyed the fruit of equality,

justice, and loving brotherhood between all men and all women, black and white.

Again, I commend him for being such a fine and upstanding representative of the party of Abraham Lincoln.

Mr. DENT. Mr. Chairman, I want the Members of the committee just to hear this:

"I have been a waitress for 25 years in the State of Louisiana. The salaries here have never increased. I am receiving a salary of 32 cents an hour, having worked 32 years in the restaurant industry. That is all that I have to support my family, and God pity women who are forced to support a family on such a salary. If there is anything that you can do in the Congress to help the waitresses in Louisiana, I wish that you would."

Mr. Chairman, I want to say that I wrote a nice letter to the lady and told her that her Congressman had come over and had shown a keen interest in the matter and was going to do what he could to help.

Mr. Chairman, I cleared with every Member of Congress who made an inquiry, either for himself or for a restaurant or a group of restaurants in his State or in his district, the provisions of the restaurant section of this act.

This is the first complaint I have had on that particular section.

Mr. WATSON. Mr. Chairman, will the gentleman yield?

Mr. DENT. Yes, I yield to the gentleman from South Carolina.

Mr. WATSON. As I recall, yesterday the gentleman expressed grave concern about some of the effects of this legislation, and I am sure that he is sincere in that and he knows the high esteem that I have for him.

In response to the position I took yesterday as I was trying to speak out to the consumers, you quoted a statement from the Consumers Union or what-have-you of California. I did not take exception at that time, Mr. Chairman, because I was sure that upon second reflection you did not mean to convey to this Committee that the people of America are not concerned about the increased cost-of-living. You can take any polls you wish, anywhere in the world, and I will take exception to it if that poll should try to reflect that the people of America are in favor of higher prices. It just does not add up.

I know the problems we have in this industry. I know you have tried to wrestle with these problems before the Committee on Rules. As I recall, from reading some of the testimony, I believe the Restaurant Association of Omaha reportedly had no objection to this particular section, but later it was established that that was not true.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina [Mr. WATKINS].

The amendment was rejected.

Mr. WATTS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I have a question that is disturbing me. I would like to address this question to the chairman of the committee or anybody else on the committee who may be able to answer it.

The fine gentlewoman from Oregon

and others have said that this bill covers sharecroppers. Now the bulk of farming throughout my section of Kentucky and all of the Southern States and many other places are operated on a share-crop basis.

The question that I would like to have the answer to is this, and I will take my own personal situation and try to explore it with you to see what the situation would be.

I have three farms. They are all operated by sharecroppers. I furnish the home, I furnish a lot of the tools and I furnish the fertilizer. They do the work. At the end of the year we sell all the livestock and all the tobacco and anything else that is raised on that farm. They get half of it as per the contract and I get half as per the contract. But I am not there to know how many hours they put in. I am not there to know whether they put in overtime. At the end of the year I go home and we sell our crops. We sell the tobacco or the cattle or whatever it might be. Sometimes a barn may burn down or the entire tobacco crop might be lost. Of course, it is no fault of theirs and it is no fault of mine. Maybe a flood comes along and destroys the corn crop. Maybe some kind of cattle disease gets to the cattle and they are destroyed.

At the end of the year when I come to settle with them, I give them their full half. They are share croppers. After they have received their half—and we will say it is \$4,000—they then drag a paper out of their pocket and say, we put in so many hours working on this farm last year. We put in so many hours of overtime. When you consider the minimum wage that Congress has set, they say—We are entitled to \$8,000. Due to the fact that our tobacco burned up and our cattle died, we only got \$3,000. Am I supposed to dig down in my pocket as landlord simply because they are share croppers and give them \$5,000? If so, it is an atrocious situation. I would like an answer from somebody on the committee who can give me an answer to this kind of situation.

Mr. POWELL. I thank the gentleman for his very incisive question. I hope my remarks and what I will read from our committee report will answer the gentleman's question. This is on page 32 of the committee report:

Testimony indicates that there are large numbers of so-called sharecroppers who are not allowed to make a single economic decision regarding the land upon which they live and work. For example, they do not decide what to plant, when to plant, when to harvest, where to purchase seed, or where to sell the product of their labor. For these people, the term "sharecropping" only denotes a means of compensation; it conveys no connotation of independence, individualism, or self-determination. On the other hand, there are true tenant farmers, who make basic economic decisions up which rest the productivity of the farm and consequently the amount of their compensation. Generally these tenants operate farms owned by absentee landlords. They are unsupervised, make day-to-day decisions necessary to the running of the farm, and share in the profits related to the productivity, for which they are greatly responsible. Such persons are not intended to be covered by the Act.

Mr. WATTS. This is not intended to be covered.

Now we will take the sharecropper. Who is going to determine what decision the landlord can make? Naturally, a landlord wants to have some say as to what portion of his farm is tied up. He would also like to have some say as to when the crop is going to be sold so that he can be present. For instance, there are situations where the landlord does exercise the right to say, "Now, look, I do not want this field plowed; I want that one plowed."

The CHAIRMAN. The time of the gentleman has expired.

Mr. WATTS. Mr. Chairman, I ask unanimous consent that I may pursue this subject for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and the gentleman is recognized for an additional 5 minutes.

There was no objection.

Mr. WATTS. I am not trying to impede the bill. I hope that the bill will be put into such shape that I can support it.

The landlord wants to say that a given part of his farm is to be plowed. He wants to say, "I have known this land better than you do. Having farmed it for years before I retired, I know better what kind of crops it will grow, and I would like to suggest that you grow this kind of crop." Then he would like to suggest that it be sold at a time when he could be present.

Who is going to make all of those determinations? In the event the landlord makes those determinations in relation to a tobacco crop—and that is the big crop in my country—that the crop normally would sell for \$10,000 and the landlord would get \$5,000 and the tenant \$5,000, and about 5 days before the crop goes to market, without any overt act on my part or on the part of the tenant, a fire burns it up, he gets nothing. Am I going to have to dig down, after losing my half of the tobacco, and pay him for the hours he put in, if I make those decisions?

I believe there ought to be more clarification in a situation of this kind, especially when I cannot be there and some fellow comes in and says, "I put in X hours, and X hours overtime." I am really disturbed about that. I think there should be some clarification on that point somewhere.

Mr. DENT. If the gentleman will yield, I will try to clarify it.

Mr. WATTS. I yield to the gentleman from Pennsylvania.

Mr. DENT. The question as to whether a sharecropper is an independent contractor can be determined by some decisions of the Supreme Court in this area. We also know that the determination is based upon whether there is day-by-day supervision by the owner of the land of the tenant, sharecropper, or independent contractor, and whether you would make the decision on the sales in conjunction with him or whether you would make the decision as to which fields to plant in order to determine "supervision" within the meaning of this act.

If you will read the report, you will find in the report the answer to every question you have asked.

Mr. WATTS. No, there is one other question I want to ask, and I do not think I can find that. Suppose the landlord does supervise day by day. Suppose they had a contract that they were to divide the proceeds of the crop and then, as I said, the crop was destroyed. Would the landlord then have to turn around and pay the sharecropper the minimum wage?

Mr. DENT. I am not going to take the place of the court and say to you that he would or would not. If he had an insurance policy, and the damage was paid under that insurance policy—

Mr. WATTS. Do you not think this great committee is capable of writing legislation that would not leave a situation of that kind hanging up in the air so that somebody would have to go to court?

Mr. DENT. You are talking about a farmer who has seven sharecroppers.

Mr. WATTS. He has one or he has seven.

Mr. DENT. Well, he still has the 500-man-day test. If he has one, he would not come under it; if he has two, he would not come under it—

Mr. WATTS. I am speaking of a farmer who would be under it. If he was not under it, he would not be affected one way or the other.

Mr. DENT. If he has seven sharecroppers, he would not be giving the kind of directions that would be considered to be daily supervision.

Mr. WATTS. I do not know who will judge that.

Mr. DENT. You can not determine that until a test case is made. No one can judge a hypothetical situation.

Mr. WATTS. I have known of situations in which floods have come along and wiped out entire crops. It has disturbed me very much, whether the landlord has 7 tenants or 70, that if he lost part of his crop, he would have to turn around and pay the sharecropper an hourly wage for every hour the sharecropper said he put in.

Mr. DENT. That is absolutely not even within the realm of remote possibility. If you are working in an office with a contract or a year's retainer and the office burns down, the owner does not have to pay you, does he?

Mr. DENT. If a fellow does not open up again, he does not have to pay it, does he?

Mr. WATTS. No. But under the bill there is a provision he shall receive the minimum wage for the time he put in.

Mr. DENT. He is then an independent contractor under those conditions. (On request of Mr. POWELL, and by unanimous consent, Mr. WATTS was allowed to proceed for 1 additional minute.)

Mr. POWELL. Mr. Chairman, will the gentleman yield further?

Mr. WATTS. I yield to the gentleman.

Mr. POWELL. Mr. Chairman, the gentleman from Kentucky has raised a very good point. It is excellent. Let it

be clearly understood from the colloquy between the gentleman and the committee that the point he has raised is exactly correct, and we stand behind the position he has stated.

May I further ask the gentleman to read the famous case of the *Rutherford Food Corp. v. Macomb* of 1947 (331 U.S. 722), which laid down the criteria. The committee says, on page 32, that we fully subscribe to these six criteria as to what is a sharecropper who is entitled to a minimum wage, and what is a sharecropper who is not.

But, in lieu of even that, I reaffirm the position of the gentleman from Kentucky is exactly correct. I support it. Let it be known that is the intent of Congress, as it goes into the CONGRESSIONAL RECORD.

Mr. WATTS. If the gentleman will yield further, I can see that the purpose of covering the sharecropper was probably to keep somebody from ducking out from under the law and claiming so-and-so was a sharecropper. That may have been what was in the committee's mind. But certainly there is the crop in which both of them have an interest, and they worked on it, both of them. He used the land, and the crop was then destroyed. I hope we are making the history here, that it is not the intention of this Congress or of this committee that the sharecropper could then say, "I am sorry it burned, old buddy, but I have put in so many hours, and you have to pay me."

Mr. POWELL. That position I subscribe to.

The CHAIRMAN. If there are no further amendments to title II, the Clerk will read.

The Clerk read as follows:

TITLE III—INCREASE IN MINIMUM WAGE
Presently covered employees

SEC. 301. (a) Section 6(a) of such Act is amended by amending that portion of the section preceding paragraph (2) to read as follows:

"(a) Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates:

"(1) not less than \$1.40 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966 and not less than \$1.60 an hour thereafter, except as otherwise provided in this section;"

(b) Such section is amended by striking out the period at the end of paragraph (3) and inserting a semicolon, and by adding the following new paragraph:

"(4) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement); or"

Agricultural employees

SEC. 302. Section 6(a) of such Act is amended by adding after paragraph (4)

(added by section 301(b) of this Act) the following new paragraph:

"(5) if such employee is employed in agriculture, not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during the second year from such date, and not less than \$1.30 an hour thereafter."

Newly covered employees

SEC. 303. Section 6 (b) of such Act is amended to read as follows:

"(b) Every employer shall pay to each of his employees (other than an employee to whom subsection (a) (5) applies) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this section by the amendments made to this Act by the Fair Labor Standards Amendments of 1966, wages at the following rates:

"(1) not less than \$1 an hour during the first year from the effective date of such amendments,

"(2) not less than \$1.15 an hour during the second year from such date,

"(3) not less than \$1.30 an hour during the third year from such date,

"(4) not less than \$1.45 an hour during the fourth year from such date, and

"(5) not less than \$1.60 an hour thereafter."

Employees in Puerto Rico and the Virgin Islands

SEC. 304. Section 6(c) of such Act is amended to read as follows:

"(c) (1) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5.

"(2) In the case of any such employee who is covered by such a wage order and to whom the rate or rates prescribed by subsection (a) would otherwise apply, the following rates shall apply:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, increased by 12 per centum. Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1966 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) Beginning one year after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 16 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966.

"(3) In the case of any such employee to whom subsection (a) (5) or subsection (b) would otherwise apply, the Secretary shall within sixty days after the effective date of the Fair Labor Standards Amendments of 1966 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 8, but not in excess of the applicable rate provided by subsection (a) (5) or subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (a) (5) or subsection (b), as

the case may be. The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1966."

Contract services to Federal Government

SEC. 305. Section 6 of such Act is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of this Act (except section 13(a) (1)), every employer providing a contract service under a contract with the United States or any subcontract thereunder shall pay to each of his employees wages at rates not less than the rates provided for in subsection (a) (1) of this section."

Federal employees

SEC. 306. Section 18 of such Act is amended by inserting "(a)" immediately after "Sec. 18." and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this Act or any other law, any employee—

"(1) described in paragraph (7) of section 202 of the Classification Act of 1949 (5 U.S.C. 1082(7)) whose compensation is required to be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates, or

"(2) employed in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces,

who performed service during the workweek in a work place within the District of Columbia or a State of the United States, shall have his basic compensation fixed or adjusted at a wage rate which is not less than the appropriate wage rate provided for in section 6(a) (1) of this Act and shall have his overtime compensation set at an hourly rate not less than the overtime rate provided for in section 7(a) of this Act."

Mr. POWELL (during the reading of the bill). Mr. Chairman, I ask unanimous consent that the further reading of title III be dispensed with and that the title be open for amendment at any point.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

AMENDMENT OFFERED BY MR. POWELL

Mr. POWELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. POWELL: On page 49, line 18, strike out the period and insert in lieu thereof the following: ", unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C)."

On page 50, line 9, strike out the period at the end of the line and insert in lieu thereof the following: ", unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C)."

On page 50, after line 9, insert the following new paragraphs:

"(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for

under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1966 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

"(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts."

On page 50, line 25, strike out the quotation mark, and after line 25 insert the following new paragraph:

"(4) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee."

Mr. POWELL (during the reading of the amendment). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and that it be printed in the RECORD.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. POWELL] in support of his amendment.

Mr. POWELL. Mr. Chairman, this amendment merely maintains the present status quo of the minimum wage law applicable to Puerto Rico. It comes with the full support of the peoples not only of Puerto Rico but the peoples of mainland United States of Puerto Rican ancestry.

I hold in my hand a letter from one of the oldest and outstanding leaders in New York, Tony Mendez, my good friend, who says that they support this amendment in New York as well. It maintains the minimum wage standards but it sets up a wage review board so that where there is a question of hardship in any industry, then the wage review board will be able to listen to the complaint and act accordingly.

Puerto Rico is making glorious strides upward. We are very proud of Puerto Rico. I do not think placing the peoples of Puerto Rico totally under the 1966 amendments to the Fair Labor Standards Act would help them the slightest bit, but I do think it will destroy their economy unless some measure of equitable relief is provided.

Mr. POLANCO-ABREU. Mr. Chairman, will the gentleman yield?

Mr. POWELL. I yield to the distinguished Resident Commissioner of Puerto Rico.

Mr. POLANCO-ABREU. Mr. Chairman, I support the amendment offered by the distinguished gentleman from New York. His study of the probable effects of H.R. 13712 on the Puerto Rican economy has led him to the conclusion that safeguards must be built into this bill as was done in the 1961 act. It is rapidly coming to light that both within and outside this Chamber other forces concerned with minimum wages are inexorably coming to the same conclusion. I may point out that the amendment does not go farther so as to preclude extended coverage in the legislation in recognition of the fact that Puerto Rico's own minimum wage law protects workers in almost every industrial classification. But if I had a vote, I would vote today for the amendment offered by the gentleman from New York, and I urge our colleagues to do this.

The review committees provided for by the amendment constitute appellate bodies for hard-hit industries in Puerto Rico which may not be able to pay the automatic across-the-board percentage increases of section 304. These committees will review circumstances and make recommendations whether such industries should be required to pay the percentage increases or, instead, pay a fixed minimum as determined by the review committees.

It is simply an appellate procedure for industries unable to pay the percentage increases that the bill calls for. Otherwise, there can be no doubt that some of these industries, particularly the smaller ones, the newer ones, the struggling ones, will most certainly have to curtail operations and throw people out of work, or at worst close their doors altogether.

The 1961 amendments imposed percentage increases in minimum wages in Puerto Rico for the first time. Doubtful of the effect of these increases on the

Puerto Rican economy Congress provided for review committees, appointed by the U.S. Secretary of Labor and compromised of representatives of labor, management, and the public. The review committees, appointed by the Secretary when more than 50 percent of a given industry appeals for relief, publicly gather evidence and make recommendations to the Secretary as to whether the statutory minimums should prevail or to what degree relief should be granted.

With the 1961 law, 10 industries successfully appealed to the U.S. Secretary of Labor and review committees were appointed to study the effect of the automatic increases.

These 10 industries represented 30 industrial classifications of which 25 were given relief in the form of lower minimums, and in 5 cases the 15-percent increase of the first year of the 1961 law was upheld.

The second 1961 automatic increase called for a 10-percent hike in minimum wages. In this case, 8 industries comprising 24 classifications appealed, 22 of which were given relief, while the committee upheld the automatic 10 percent for only 2 industrial classifications.

This enabled most affected industries in Puerto Rico to stay in business, but considerable unemployment resulted.

We cannot stand further unemployment in Puerto Rico. It has been our No. 1 problem for many years. The main effort of the Puerto Rican government has been to reduce unemployment and underemployment through industrialization. With our young population and rapidly expanding labor force, we have to run faster and faster just to stay even. While we have been generally successful in creating new jobs, the unemployment rate was still 11.6 percent of the labor force in October 1965.

I am sure, Mr. Chairman, it is apparent to our colleagues that provision for review committees as was the case in the 1961 law, must be retained in this bill, and I hope my colleagues will support the amendment to accomplish this purpose.

Mr. POWELL. Mr. Chairman, I yield to the gentleman from New York [Mr. O'BRIEN] who has been chairman of the Subcommittee on Insular Affairs of the Committee on Interior and Insular Affairs.

Mr. O'BRIEN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York and defended so eloquently by the Resident Commissioner from Puerto Rico.

The Commissioner, in a persuasive letter to his colleagues on May 12, stated that he was "alone in representing in Congress 2.9 million people in Puerto Rico" and that he is not accorded a vote.

The Commissioner is technically correct, but, in fact, he is not alone and he has many friends here who realize the enormity of his problems and those of his beautiful Commonwealth, and we stand with him today.

My support of this amendment is not inconsistent with my support of the legitimate interest and rights of the workingman. But the House in its wisdom

has given its Members varied responsibilities and assignments.

One of mine, through the years, has been Puerto Rico. I am proud of the progress there. Operation Bootstrap has been the economic marvel of this hemisphere.

But progress does not mean full accomplishment. Much remains to be done before Puerto Rico can arrive at the per capita income level of the poorest State. We must be very careful not to pull the pillars from beneath the economy which has been built brick by brick. This amendment will preserve one of these vital pillars.

Mr. Chairman, we cannot expect a chicken to deliver an ostrich egg. If such an attempt is made, through full application of the stateside minimum wage law, we will get no egg at all and we may well, in the process, kill the chicken.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. POWELL. I yield to the gentleman from Texas.

Mr. GONZALEZ. Is the amendment tantamount to an exemption for Puerto Rico? Does it designate Puerto Rico?

Mr. POWELL. No. In 1961, at the request of the former Governor of Puerto Rico, Luis Muñoz-Marín, our committee put into the minimum wage law for the first time Puerto Rico. All the amendment will do is to maintain the situation in Puerto Rico as it was in 1961.

The amendment would exempt no area whatsoever. It would give them a wage increase of 12 percent the first year and 16 percent the second year. But if, in the opinion, of the Wage Review Board in Puerto Rico—which, by the way, was appointed by the Secretary of Labor on the mainland, in the United States—the increase is considered a hardship, then that Wage Review Board, composed of representatives of labor, management and the consumer, will adjust the wage.

Mr. GONZALEZ. But actually the provision for a Review Board, insofar as the proposed legislation is concerned, is a unique and singular feature applied to the Puerto Rico area?

Mr. POWELL. That is correct. We did that because Puerto Rico is unique in its economy in relation to the continental United States. They have made tremendous progress through Operation Bootstrap, and they are going forward by leaps and bounds. It is only a question of time, and a short time, when the Minimum Wage Act, in its total legislative thrust, will apply to Puerto Rico.

Mr. GONZALEZ. The reason I was asking the question is that in my part of the country we have areas or pockets, so to speak, in which very similar situations exist. This has been precisely the point made by those who have objected to the increased coverage and exemption of the present Minimum Wage Act. It seems to me that this is a sort of admission, to a certain extent, even if partial, that the arguments that we have heard may have some basis in truth, and that we ought to have the type of review that is set up in the case of Puerto Rico.

Mr. POWELL. We do have depressed-area legislation and war-on-poverty leg-

islation. We do have that kind of legislative thrust for those areas. I think the problem is being taken care of.

Mr. GONZALEZ. I thank the gentleman.

Mr. GLENN ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask the distinguished chairman of the Education and Labor Committee if the amendment he opposes does not in effect set up a review board veto of any rise in the minimum wages at all in Puerto Rico, when they feel it is necessary?

Mr. POWELL. I would like to answer the gentleman with two answers, if I may.

The review boards have always been in existence prior to our committee's putting Puerto Rico under the minimum wage in 1961. They were in existence at that time. The review boards can only act in a presented hardship case. The boards must be certified by the U.S. Secretary of Labor. The review board is composed of labor, management, and consumers.

Mr. GLENN ANDREWS. I maintain there is going to be hardship throughout all of the lower income areas, against which the Island of Puerto Rico competes, as far as markets are concerned.

What peculiar situation is involved that would give them an opportunity to veto the minimum wage rates, as an exception for them, as compared to the mainland, which is in open competition with them in many cases?

Mr. POWELL. The reason is because the Island of Puerto Rico is an island in which the economy is at a far lower level than the lowest State in the United States of America. The average per-capita income is quite low. They have no natural resources whatsoever. Only about 10 percent of the land is arable, and 90 percent is mountainous. They have tremendous costs in transoceanic shipping. The population density is the largest in this part of the world per square mile.

They are doing a wonderful job with the Operation Bootstrap. Something like this would just about pull the economic rug out from underneath them. We in this Congress would then have to spend three or four times as much as we now do in Puerto Rico, because that island is our showcase in Latin America.

Mr. GLENN ANDREWS. I have no interest in working any hardship on Puerto Rico. I warned the gentleman ahead of time that minimum wage Hurricane Betsy was heading for the island.

But if we are going to take that particular hardship and exempt them, Puerto Rico has about half the per capita income as compared to Alabama, and Alabama has about half the income as compared to New York.

If we make an exemption for Puerto Rico, why not an exemption for Alabama? Why not a graduated minimum wage? What is the difference?

Mr. POWELL. The difference is I believe Alabama is both a part of the mainland of the United States and one of our 50 States.

Mr. GLENN ANDREWS. Against which Puerto Rico competes.

Mr. POWELL. No. Not on the mainland.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. GLENN ANDREWS. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, I would like to see Puerto Ricans put on a basis where they cannot undercut a knitting mill I have in my district. The knitting mill has had great difficulty getting contracts to produce knit gloves and mittens because it is underbid by the Puerto Rican knitting mills that are operated out of New York City. There is no minimum wage applicable in Puerto Rico to this production.

Mr. GLENN ANDREWS. May I say to the gentleman that in Puerto Rico the hardships are taken care of by the local boards, by adjusting the local wages. But the minimum uniform wage, applied across all the States, across the Southern States and the low-income States, will work a hardship. This is what I am against in the bill.

Mr. GROSS. The industry in my district has to conform with the minimum wage law. It ought not to be forced into unfair competition with producers in Puerto Rico who are not bound by a minimum wage.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. GLENN ANDREWS. I yield to the gentleman.

Mr. STRATTON. Mr. Chairman, in connection with the point made by the gentleman from Iowa, the distinguished chairman said that this refers only to hardship cases. In that connection I would like to know if he will keep in mind the hardship cases of the glove industry in New York. They have been similarly hurt by industry moving out of New York and into Puerto Rico. I believe this is the type of hardship about which some of us are concerned in connection with this bill.

Mr. POWELL. I am concerned about the hardship of my people who have the highest unemployment rate in the United States. I am concerned about the hardship of my people who have the highest percentage of dropouts and pushouts. I am concerned about the hardship of my people who still suffer from economic deprivations and educational inadequacies.

Mr. BOW. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have not participated in the debate on the minimum-wage bill, but I rise in support of the amendment of the gentleman from New York [Mr. POWELL], on behalf of the people of Puerto Rico.

In the early days of my service here I served on the Committee on Interior and Insular Affairs at a time when we developed the Commonwealth of Puerto Rico. I might say that I first visited Puerto Rico in 1946, not as a Member of Congress but as an individual. It was then the poorhouse of the Caribbean, but the Congress in its wisdom gave to Puerto Rico the right to self-govern-

ment. We passed Public Law 600. We gave them the right to develop a constitution, and minimum-wage provisions to take care of it and to build Puerto Rico economically.

Even today Puerto Rico has tripled the unemployment that any State of the Union has. It seems to me this is one place we should make an exception, and we should give these people the opportunity to further develop.

As I say, it was the poorhouse of the Caribbean in 1946. As an individual I have gone back and forth to those islands every year, once or twice, not as a Member of Congress but as an individual, because I like the people. I like what they are doing. I like the development they have made.

Now, some talk about the stealing of industry. This is not correct. They do not do that. They will not give tax benefits to people who take industry away from other States. This is for the development of new industry on the island.

My friends, Puerto Rico is now the Pearl of the Caribbean. It is a place where we can tell the people of the world what we do with what was once a territory and now is a commonwealth. It is a showplace for all the world to see, to show that the United States is not a colonial empire but that the United States has developed its territories so that they can begin to produce and walk with dignity.

Puerto Rico today is the fifth largest consumer of goods made in the United States of America. They are one of our best customers, because they have been able to develop.

I am convinced, my colleagues, if we adopt the amendment of the gentleman from New York, that within the next 4 or 5 years they will be to the point that they can accept this minimum wage. Unless we give them the opportunity to continue to develop, I fear we will destroy the advances which have been made and we will have to begin to send dollars to support the economy of Puerto Rico, rather than let them take care of it themselves.

I urge the adoption of the amendment of the gentleman from New York.

These are fine American citizens. Let me say that in years gone by I pointed out to the House, from this well, their great support of our Armed Forces in Korea, when their own battalions protected the 1st Marine Division from annihilation. They are good American citizens. They are our own people.

I would hope that we would do nothing here to destroy the advance being made on the island of Puerto Rico. I am convinced that within 4 years they will be able to meet these minimum wages.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. BOW. I yield to the gentleman from Iowa.

Mr. GROSS. In the district I have the privilege to represent there is one of the few knit glove and mitten mills left west of the Mississippi River. There used to be several of them. There used to be many of them in Wisconsin.

I wish the gentleman would go out to the Third District in Iowa and tell the operator of that mill that his business and the jobs of his employees have not been stolen by Puerto Rico.

Mr. BOW. I might say that perhaps some of the business from the State of Ohio has been taken over into the State of Iowa in some of the meat-producing end of our business. It is a question of going from one State to the other. Perhaps they do a better job. This happens. The wages in Iowa in the canning industry and in the meat-producing end of the industry are a little lower than they are in the State of Ohio. Perhaps—I do not know—this is a question of comity between the States.

Mr. GROSS. No. It is a question of the Minimum Wage Act. That is the question. It is cheap labor in Puerto Rico.

Mr. BOW. I think we are paying more than that in the State of Ohio. But I say to you unless we continue this growth in Puerto Rico, we will be in for trouble.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. POWELL. I have no question, but I just wish to thank the gentleman for his cooperation on this amendment.

Mr. BOW. I thank the gentleman. I would like to say further the gentleman from Ohio [Mr. AYRES] has supported this amendment and the people of Puerto Rico owe him a great debt of gratitude.

(Mr. BOW asked and was given permission to revise and extend his remarks.)

Mr. BOW. Mr. Chairman, I would like to commend the Resident Commissioner of the Commonwealth of Puerto Rico on his excellent statement. He has convinced me that I must offer my wholehearted support in seeing that H.R. 13712 is amended, to prevent the government of Puerto Rico from suffering a serious setback in its determined efforts to bring prosperity and well-being to a once poverty-stricken land.

My relationship with Puerto Rico is no different from that of my colleagues in this Chamber. I have been entrusted with the power, as have you, to pass upon legislation which will significantly affect this insular affiliate of the United States and the almost 3 million U.S. citizens living there. And I recognize, as you must also, that this power imposes upon me a duty to act reasonably, fairly, and conscientiously with respect to Puerto Rico.

This duty does not spring solely from the grant of power to reasonable men. It is a duty imposed by our own best interests. A prosperous Puerto Rico will provide an invaluable market for consumer goods produced in the various States. Not too long ago, the people of Puerto Rico were so poor that the thought of possessing and consuming American goods was but an idle dream. Today, Puerto Rico is the fifth largest customer of the U.S. mainland, buying over a billion dollars in commodities coming from every State in the Union. This startling figure warns us to be wary of tampering with the greatly improved,

but still delicately balanced, economic structure of the Commonwealth. I understand, from my colleague from Puerto Rico, that this minimum wage legislation will produce an immediate loss of at least 27,000 jobs on the island, not to mention the many jobs that will never come into being. We are insulated, by a thousand miles of ocean, from the suffering and deprivation that this unemployment will cause. But the industries and merchants here will feel it, as their sales in Puerto Rico dwindle.

Consequences will also be felt on the international level. The United States can now look with pride upon its relationship with Puerto Rico—a political, economic, and social coadventure which has made Puerto Rico the "showcase of the Caribbean." To the underdeveloped countries of Latin America, Puerto Rico vividly demonstrates that rapid economic development and peaceful social reform can be accomplished within the framework of democratic institutions, without resort to revolutions or dictatorial regimes. To the nations of the world, Puerto Rico, with its great measure of political autonomy, is dramatic proof of the United States desire that its neighbors and associates pursue their own policies and programs, without meek subservience to the wishes of any larger power. It would, indeed, be a shame if, by passing an improvident piece of legislation, we were to blacken all the progressive policies toward Puerto Rico that this country has heretofore pursued.

Finally, I believe we would be derelict in our duty if we were to assume that Puerto Rico is now economically no different from any State, and that it is equally capable of absorbing the wage policies of our highly industrialized and diversified economy. We must listen when the Resident Commissioner tells us that this is not the case; that the unemployment level in Puerto Rico is almost triple that of the United States; that the average income of Puerto Rican workers is but three-fifths that of the lowest per capita income State; and that the Federal minimum wage in Puerto Rico must be tailored to meet these unique problems.

I, for one, am not willing to argue with these hard facts. They show to me the necessity of continuing in Puerto Rico the flexible system of special industry committees and of rejecting automatic wage increases. They convince me of the dangers of extending coverage in Puerto Rico. And I urge my colleagues to be willing to listen, to be convinced, and to offer Puerto Rico their much needed support.

Mr. FARBERSTEIN. Mr. Chairman, I feel sure my colleague has in mind the welfare of the workingman, both in Puerto Rico and on the mainland, in introducing the amendment currently before us. I sincerely believe, however, that this is a bad amendment and that it will ill serve Puerto Rico and the Puerto Ricans, as well as the cause of labor and industry throughout the country.

The amendment inserts a loophole into this very fine bill presented to us today.

It is a loophole through which countless employers in Puerto Rico, as well as the Virgin Islands, will be able to slip in in order to avoid or delay paying decent wages to their employees. The amendment gives employers in Puerto Rico and the Virgin Islands a chance to evade increases provided by H.R. 13712. This they would do by asking the Secretary of Labor to appoint committees which would be given the task of seeing whether or not increases in minimums provided for by the Congress of the United States should be put into effect. It is not as if the Dent bill did not allow for wage differentials between the continental United States and Puerto Rico. The bill leaves untouched those elements of autonomy in the Puerto Rican system that permits minimums lower than those in the continental United States to those industries that need them to survive. I am almost sorry that it does that, because statistics and experience seem incontrovertibly to demonstrate that industries required to pay a decent wage soon adjust to it and survive very nicely at the higher pay level. But, be that as it may, the Dent bill perpetuates Puerto Rican autonomy where it presently exists but closes any loopholes against evasion. It requires that the minimum wage be raised in all industries by the same percentage—28 percent over 2 years—that it is raised in the continental United States. Since minimum wages in Puerto Rico range from 30 cents to \$1.25, the increases will range from 3.6 cents to 15 cents in 1967 and from 4.8 cents to 20 cents in 1968. That, to be sure, is a modest increase, one which Puerto Rican industry can afford. It must be made to afford it to preserve decent living standards among its workers. I might add that the provisions that apply to Puerto Rico and the Virgin Islands in the current bill duplicate the provisions in the last amendment to the Fair Labor Standards Act, except for denying special privileges to a few employers. The difference between procedures under the bill and under the amendment is that the bill provides for an automatic increase; the amendment will permit employers to stall any increase for months and even years and perhaps to avoid it completely.

I am inserting in the RECORD at this point a letter from the chiefs of all of the major Puerto Rican labor organizations and a telegram from Keith Terpe, president of the San Juan Central Labor Council. The letters says, with no equivocation at all:

The Puerto Rican organized labor movement solidly supports the provisions of the Dent bill as reported out. We vigorously oppose any amendment that would exclude Puerto Rico or alter the coverage in any way except as provided in House Bill 13712. To consider omitting Puerto Rico from this legislation is utterly incredible * * *.

Yet, Mr. Chairman, that is precisely what the amendment seeks to do. It will put Puerto Rican labor at the mercy of the employers, much as American labor was at the mercy of employer anarchy before the first Fair Labor Standards Act was passed.

I am inserting in the RECORD at this point a telegram from prominent Puerto Rican labor leaders:

The Puerto Rican organized labor movement solidly supports the provisions of the Dent bill as reported out. We vigorously oppose any amendment that would exclude Puerto Rico or alter the coverage in any way except as provided in House Bill 13712. To consider omitting Puerto Rico from this legislation is utterly incredible. In 1964 the commonwealth government urged that a \$1.50 island minimum be established plus profit sharing plans for Puerto Rican workers to combat "exploitation by U.S. interests" whose sole interest was a "quick buck". We appreciate the fact that then the economic problems of Puerto Rican workers were fully recognized by the commonwealth government. We vigorously disagree that our current wages are sufficient to cope with the steadily increasing cost of living index on this island—even higher than that of Washington, D.C. Our more than 200,000 AFL-CIO members in Puerto Rico—plus the thousands of other workers here not privileged to be affiliated with international unions must not be made stepchildren in the family of U.S. labor. Puerto Rico enjoys a unique position as the showcase of democracy and economic development in the Latin hemisphere. Permanent damage to that image, will occur here and elsewhere if the Congress of the United States makes us by law in effect second class citizens—and Puerto Rico another Hong Kong. Total exploitation of the labor force here can and will occur at the expense of both the Puerto Rican and stateside worker, as well as stateside industry. Fomento, the Industrial development division of the Government of Puerto Rico, reported that out of almost 500 factory closings over an 18 year period only 7 actually closed because of minimum wage increases on Federal or local levels. We implore you therefore to support fully and vote for House Bill 13712 without further amendment.

Signed by:

1. Keith Terpe, President Siu of Puerto Rico.
2. Thomas Martinez, NMU.
3. George Treviño, Steelworkers Union.
4. Rafael A Valle, American Federation of State County & Municipal Employees.
5. Moises Lebron, Boilermakers Union.
6. Victor Rosario, Federal Firefighters, Local F-97.
7. Bob Alpert, Gastronomical Workers Union, Local 610.
8. Vicente Melendez Borges, Int'l Association of Firefighters.
9. Ralph Garcia, International Brotherhood of Carpenters.
10. Hugo Caprarella, International Leathers Goods Union.
11. Guillermo Ortiz, ILA, Local 1575.
12. Mr. Jimenez, IUE.
13. Sergio Caseine, Office Employees.
14. Diego Pagan, Oil Chemical & Atomic Workers Union.
15. Luis Montañez, P.R. Newspaper Guild.
16. Candido Soto, Retail Clerks Union.
17. Red Campbell, SIU A & G District.
18. Mr. Robles, Typographical Union.
19. Rafael Berrios, UDEM.
20. Manuel Menendez, Amalgamated Clothing Workers Union.
21. Hiram Rivera, Amalgamated Meat Cutters.
22. Len Mahoney, Ironworkers Union.
23. Jose Ramos, Cannery Workers Union of Atlantic & Pacific.
24. Agustín Benítez, Reg. Dir. AFL-CIO.
25. Ron Gillman, International Rep., Guards & Watchmens' Union.
26. Alberto Sanchez, Int'l Ladies Garment Workers Union.
27. Manuel Rey, Airline Clerks, Lodge 3000.

The total labor movement of Puerto Rico shocked and astonished over newspaper re-

ports that automatic FLSA coverage providing for \$1.40 and \$1.60 wage rates for Puerto Rico to be denied in House bill number 13712. We urge reconsideration on your part. Puerto Rican labor force desperately needs full protection as was provided for in the Dent-bill. Automatic proportionated increases for Puerto Rico are vital and failure to recognize this would result in incredible hardships being inflicted on the Puerto Rican labor force and would mean that the workers of Puerto Rico in effect would become second class citizens as well as being at the total mercy of the employer. We urge you read testimony given by Puerto Rican labor movement before Senator Nelson and the Senate subcommittee which conducted hearings in San Juan on January 4th and 5th our position is clearly expressed therein.

KEITH TERPE,

President, Central Labor Council of San Juan and Vicinity, AFL-CIO.

I am inserting in the RECORD at this point an analysis of the Puerto Rican economy which proves beyond a doubt that Puerto Rico can afford, can thrive, and definitely needs, at the very least, the provisions of the Dent bill. Fairness requires them. The workers deserve them.

NOTES ON PENDING LEGISLATION—PUERTO RICO

1. Minimum wage changes, including automatic increases, did not have any adverse effect on employment or economic growth of Puerto Rico.

"There can be no refuting of the undeniable fact that Puerto Rico has experienced impressive rates of growth, notably in its income, but also, to a lesser degree, in its employment, during the past decade; i.e., since 1956, when an active perusal of the act's requirement that wages in Puerto Rico be raised as rapidly as economically feasible, was instituted; or, for that matter, since 1961, when automatic across-the-board increases were imposed on existing Puerto Rican minimums."

Amadeo I. D. Francis, Economic Adviser to the Administrator, Economic Development Administration, Puerto Rico, hearings of the Senate Labor Subcommittee on the amendments of the F.L.S.A., page 1478.

2. Employment in Puerto Rico manufacturing industry grew at a much faster rate than employment in the United States or in 13 out of 14 Southern States. The annual rate at which employment increased between 1957 and 1964, or between 1960 and 1964 (the period during which the automatic minimum wage adjustments applied to Puerto Rico) are shown in the table below:

	Average annual increases (percent)	
	1957-64	1960-64
Puerto Rico.....	+5.3	+6.1
United States.....	+1	+7
Alabama.....	+6	+2.1
Arkansas.....	+5.3	+5.3
Florida.....	+4.5	+3.6
Georgia.....	+1.9	+2.5
Kentucky.....	+1.6	+3.0
Louisiana.....	+1	+2.0
Mississippi.....	+3.9	+4.0
North Carolina.....	+2.5	+2.3
Oklahoma.....	+1.0	+2.8
South Carolina.....	+2.6	+3.2
Tennessee.....	+2.6	+3.4
Texas.....	+1.1	+2.4
Virginia.....	+2.2	+2.9
West Virginia.....	+1.8	+1

Source: Puerto Rico Department of Labor, Employment, Hours and Earnings in the Manufacturing Industries in Puerto Rico, 1957-64; U.S. Bureau of Labor Statistics Bulletin 1370-2, Employment and Earnings Statistics for States and Areas, 1939-64 (data for 1964 is the latest published by the Bureau for the different States).

3. The value of goods produced in Puerto Rico rose at a much faster rate than the value of goods produced in the United States. This is evident from data on the average annual changes in shipments of goods from Puerto Rico to the United States between 1957 and 1965 and between 1960 and 1965 (the period during which the automatic minimum wage adjustments under the Fair Labor Standards Act applied to Puerto Rico):

Period covered	Average annual increases (percent)	
	Shipments from Puerto Rico	Manufacturers' sales, United States
1957-65.....	+10.7	+4.3
1960-65.....	+10.5	+5.5

Source: U.S. Department of Commerce, U.S. Trade with Puerto Rico and U.S. Possessions (FT800), and Manufacturing and Trade Sales and Inventories.

4. On passage of Labor Standards Act Amendments of 1966, minimum wages in the United States are expected to rise on February 1, 1967 from \$1.25 to \$1.40 an hour (or by 15 cents) and on February 1, 1968 to \$1.60 an hour (or by an additional 20 cents). The flexibility in minimum wages of Puerto Rico will be preserved because they will be increased by corresponding percentages 12 and 16 respectively, 60 days after stateside rates become effective. Since minimum wages in Puerto Rico range from 30 cents to \$1.25 an hour, this means that 1967 increases in Puerto Rico will range from 3.6 cents to 15 cents an hour and the 1968 increases will range from 4.8 cents to 20 cents an hour, depending on the wage levels.

5. Because many automatic adjustments in the Puerto Rican minimum will be smaller in cents per hour than the corresponding minimum wage increases in the 50 States, the differential between Puerto Rican minimums and those in the United States will widen thus providing additional advantages for industry in Puerto Rico.

6. Puerto Rico can readily bear the proposed increases, since physical productivity of workers in Puerto Rico approximates that of workers elsewhere in the United States.

"... the evidence suggests that, given comparable training, equipment, and management, there is no significant difference between the personal efficiency of experienced factory workers in Puerto Rico and on the mainland."—Lloyd G. Reynolds and Peter Gregory, Wages, Productivity and Industrialization in Puerto Rico (1965).

"The overall productivity of the plants surveyed was 98 percent of comparable mainland plants."—Puerto Rico Economic Development Administration, Investment and Business Opportunities in Puerto Rico (1965).

7. Despite high productivity, minimum wages in Puerto Rico and average wages and fringe benefits costs in Puerto Rico lag far behind those stateside. Differences in these costs demonstrate that room for continued improvements in minimum wages is ample and that minimums can be readily raised in Puerto Rico by the same percentages as the stateside increases without jeopardy to future employment prospects. The wage disparity will continue to favor Puerto Rico and will remain more than adequate to meet whatever costs are incurred because of the distance between the mainland and Puerto Rico.

"... location and comparatively low ocean freight rates often make it possible to transport products to certain areas of the United States more cheaply from Puerto Rico than from locations in Canada or the United States proper..."—Puerto Rico Economic Development Administration, Profit Opportunities in Puerto Rico for Canadian Manufacturers (1962).

Industry "can serve California markets at lower cost from Puerto Rico than . . . from Chicago."—Puerto Rico Economic Development Administration, Puerto Rico 1963: A Report to Industry on Productivity and Profit Potential.

8. Industrial operations in Puerto Rico are an integral part of the economy of the United States. An overwhelming proportion of goods made in Puerto Rico are produced for sale in the United States. As such, Puerto Rican products compete directly with all similar products produced elsewhere in the United States.

" . . . U.S. and Puerto Rican industry are in direct competition in whatever market they seek to sell."—Puerto Rico Economic Development Administration, The Industrial Development Program, 1942-60.

9. Automatic increases in minimum wages in Puerto Rico following increases in state-side minimums helps to maintain the com-

petitive relationship between Puerto Rico and the rest of the United States which existed immediately prior to the enactment of higher state-side minimums.

10. Automatic increases in minimum wages in Puerto Rico following increases in minimum wages in the 50 States assure that at least proportionate adjustments in the Puerto Rican rates will take place. This will benefit Puerto Rican workers whose incomes are low and whose living costs are high.

The 1961 amendments to the Fair Labor Standards Act permitted some employers in Puerto Rico to petition for the appointment of review committees and thus avoid the application of automatic minimum wage increases. Seven industries made such appeals both in 1961 and 1963. It is significant that the available data on the dollar volume of shipments of these 7 industries shows an upward trend:

[Dollars in millions]

Industry	Volume of shipments		
	1960	1965	Increase (percent)
Tobacco	\$41.2	\$123.8	+200.5
Sugar manufacturing	116.1	116.3	+.2
Hosiery	.8	6.6	+725.0
Handkerchief, scarf, and art linen	3.5	6.3	+80.0
Sweater and knit swimwear	13.8	28.9	+109.4
Fabric and leather glove	7.6	9.8	+28.9
Women's and children's underwear and women's blouse	18.8	36.6	+94.7
Total	201.8	328.4	+62.7

Let me also point out, for the information of my colleagues who think that the welfare of Puerto Rican workers has no bearing on them or on their constituents, that most goods made in Puerto Rico are sold in the United States. Puerto Rican products compete with American-made products. Puerto Rico competes with the mainland as an attraction for locating industry. It is fair to say that passage of the Powell amendment will put certain American industries at a distinct disadvantage, and unfair disadvantage, one which Puerto Rican employers have no justification for demanding. Puerto Rican reconstruction does not depend on the Powell amendment. It depends on fair wages, which the Dent bill will help provide. It depends on making Puerto Rican industrial leaders aware of the need to compete with the mainland by methods other than peonage. I must advise my colleagues that a vote for this amendment will be a vote against the interests of industry and labor at home, as well as on the islands. I urge my colleagues to defeat this amendment decisively.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. POWELL].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MORRIS

Mr. MORRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MORRIS: On page 46, beginning on line 24, strike out "during the first year" and insert in lieu thereof the following: "during the first three years."

(Mr. MORRIS asked and was given permission to revise and extend his remarks.)

Mr. MORRIS. Mr. Chairman, I yield to the gentleman from New York [Mr. POWELL].

Mr. POWELL. Mr. Chairman, I ask unanimous consent that our colleague from New Mexico be given 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. POWELL. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close at 2:30.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. AYRES. Mr. Chairman, reserving the right to object, and I shall not object, just to get the record clear on this, this is on the so-called Morris amendment only? All debate on this amendment and amendments thereto would close at 2:30?

Mr. POWELL. That is right.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MORRIS. Mr. Chairman, I, too, wish to compliment the gentleman from Pennsylvania [Mr. DENT], the gentleman from California [Mr. BELL], and the members of the subcommittee and full committee who have exerted so much time and effort in this legislation. I do not deny that they have been real legislative craftsmen. It is my intention in offering my amendment to make the proposed legislation even better. I have no intention of desecrating or destroying the work that they have done because I intend to vote for H.R. 13712 whether my amendment is adopted or not.

My amendment to the minimum wage bill is aimed at achieving a \$1.60 level in a manner more conducive to the continued health and stability of the overall national economy. I have sent to every member a chart, showing the net effect of my amendment and demonstrating that it provides for the increase to \$1.60 at a pace much more consistent with the President's guidelines for sound economic growth than does the bill as it now stands.

However, in my opinion the present version of the bill not only fails to meet the President's own economic standards but may also be self-defeating of its declared purposes of creating a better living standard for American wage earners. That is the danger inherent in the accelerated pace at which this legislation would introduce higher minimum wage levels into the economy.

Like myself, there are many Members of the House who support the \$1.60 minimum wage goal contained in the bill. But what we should seek here today is not simply a dollars-and-cents increase in minimum wages. We are charged with shaping a minimum wage increase bill which will be meaningful in terms of greater purchasing power for wage earners.

The fact is that a minimum wage increase that is thrust upon the economy at a rate too rapid to be properly absorbed might result in drastic economic consequences which would find our wage earners with less dollar-for-dollar purchasing power than they have today.

And that, in my opinion, is the built-in danger of the abrupt 12-month absorption period between the \$1.40 level increase and the \$1.60 level increase included in the committee bill.

I have long felt that it is necessary to permit our economy to absorb these increases in a reasonable and orderly manner. Last fall at the AFL-CIO convention, I spoke of the need to "carefully pace the speed" with which we approach our minimum wage objectives. Nothing has occurred since that time to disprove my thesis or alter my views regarding this need. In fact, the case for a careful pacing of proposed minimum wage increases is even stronger today than it was 7 months ago.

As now written, H.R. 13712 provides for a 20-cent minimum wage increase to become effective only 12 short months after the economy has absorbed the 15-cent increase to \$1.40. My amendment would leave untouched the 15-cent increase to \$1.40, effective February 1, 1967. But whereas H.R. 13712 now calls for a comparative large 20-cent increase only 12 months later, my amendment provides for a 36-month absorption period.

It should be noted that the 36-month period outlined in my amendment is wholly within the historic pattern of minimum wage increases and effective dates established by every minimum wage bill enacted since the original Fair Labor Standards Act of 1938. The 12-month absorption period provided for by H.R. 13712 sharply breaks this pattern and is without precedent in nearly three decades of minimum wage legislative history.

Today, economic restraint is more than ever the keyword in considering our national wage-price structure. And despite the arguments of those who believe that a wage increase can be passed into law without any corresponding effect on prices, a responsible Congress cannot overlook the integral relationship which each bears to the other.

Let us therefore have our needed minimum wage increase to \$1.60. But at a time when all prudent men call for restraint and moderation, let us enact into law an increase that will energize and not overheat our expanding national economy.

I do not wish to get bogged down in a battle of statistics, since statistics can be and often are twisted to prove almost everything. I would like to call to the attention of the Members the chart which I inserted in the *RECORD* May 24 on page 10786. This chart was taken from the statistical abstract of the Department of Commerce and shows that since January 1950, when the minimum wage level was set at 75 cents, until the present time, the minimum wage and the average weekly wage in manufacturing have risen in a pattern that is virtually parallel.

If the Members will recall the chart I sent to each of you showing the historical trend of minimum wage increase, you can visualize the gradual but steady rise in the minimum wage. If I could show a chart of the average weekly wage in manufacturing, it would demonstrate the same gradual and steady rise at almost the same rate.

As the chart which the Members received showed, H.R. 13712 contemplates a sharp increase in a period of 12 months. I cannot say that the average weekly wage in manufacturing will also increase so sharply even though the two have always moved together in the past 15 years.

I simply say that it is reasonable to assume that the skilled workers of this country, who have always enjoyed a wage well above the minimum level, will continue to insist on their historical differential. If they do, and you and I know they will, and history continues as it has in the past, then passage of this bill without my amendment will mean that the average weekly wage in manufacturing will increase 14.3 percent in 1 year—the contemplated increase in the minimum wage. My amendment would spread the 14.3 percent increase over a 3-year period, which would produce a yearly increase of approximately 4.7 percent, a figure much more nearly in line with reasonable economic guidelines.

I know that you can get 100 economists together and probably get 100 different answers as to whether or not this particular proposal or some other is inflationary. The Members of this House realize, I am sure, that you do not have to be a chef to recognize good food and that you do not have to be a chicken to know the quality of an egg. So, also, you do not have to be an economist to exercise the good sense and judgment that would point out to you that if the average weekly wages in manufacturing were raised 14 percent in a 12-month period it would cause a serious inflation-

ary spiral which could wipe out the benefits of the minimum wage bill which we are considering. This proposal seems to me to be very similar to a sign along a highway which indicates that a safe speed of the curve ahead is 50 miles an hour. This does not mean that you might not be able to survive making the curve at 60 miles an hour but it does mean that you would not be exercising the best judgment if you tried. I am only asking you to exercise your own good judgment. If we adopt my amendment and it turns out that the minimum wage needs to be raised, sooner than 1970, those of you who are returned to the 90th Congress can raise it but you and I know that if we adopt the committee bill as is, it will not be lowered even if the circumstances prove it should be. I hope the committee will adopt my amendment.

The CHAIRMAN. The time of the gentleman has expired.

(Mr. MORRIS asked and was given permission to revise and extend his remarks.)

The CHAIRMAN. Under the unanimous-consent agreement limiting debate on the pending amendment, the Chair will recognize Members who were standing at the time of the request indicating their desire to be recognized.

Mr. WAGGONER. Mr. Chairman, I ask unanimous consent that the time allocated to me may now be allotted to the gentleman from New Mexico [Mr. MORRIS].

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New Mexico [Mr. MORRIS].

Mr. POWELL. Mr. Chairman, I ask unanimous consent that my time be allotted to the gentleman from New Mexico [Mr. MORRIS].

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New Mexico [Mr. MORRIS] for 6 minutes.

Mr. POWELL. Mr. Chairman, will the gentleman yield?

Mr. MORRIS. I yield to the gentleman.

Mr. POWELL. The gentleman from New Mexico and I have discussed this amendment—and I do not agree with it.

I think for labor to wait for 3 years to go to \$1.60 is an undue hardship, but recognizing the parliamentary situation and the mood of the House, may I inquire if the gentleman is disposed to accept an amendment to his amendment to make the last jump 24 months instead of 36 months?

Mr. MORRIS. I will say to my friend, I hope that there is never a time when reasonable men and women cannot talk something over and discuss an issue. I would personally rather have the 36 months, but if the gentleman from New York and the Committee feel they can compromise on 24 months, I would certainly yield to their great wisdom and judgment.

Mr. POWELL. I am doing this uni-

laterally and not on behalf of the committee. We have not discussed it at all. I have yielded my time to the gentleman from New Mexico. But maybe some member of the Committee will subsequently oppose the 36 months or my proposal of 24 months. In any event, I thank the gentleman.

Mr. MORRIS. I thank the gentleman from New York.

Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state the parliamentary inquiry.

Mr. MORRIS. As I understand, the gentleman from New York [Mr. POWELL] has proposed a 24-month stretchout instead of the 36-month stretchout which I have proposed—and the committee bill proposes a 12-month stretchout. Is there an amendment to my amendment pending to do this, Mr. Chairman?

The CHAIRMAN. No amendment to the amendment offered by the gentleman from New Mexico [Mr. MORRIS] has been offered.

Mr. POWELL. I would say to my colleague, the gentleman from New Mexico, that I have personally not offered an amendment but I was just engaging in colloquy with him seeking to know how he felt about this.

Mr. MORRIS. I thank the gentleman.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. MORRIS. I yield to the distinguished minority leader.

Mr. GERALD R. FORD. Is it the intention of the gentleman from New Mexico to press for his amendment or does he intend to withdraw his amendment in the expectation that either the gentleman from New York, the chairman of the committee, or the gentleman from Pennsylvania, the spokesman for the majority on this bill will offer an amendment. I think it is important to have a clarification.

Mr. MORRIS. Mr. Chairman, I am somewhat confused as to the status of my amendment.

Mr. GERALD R. FORD. If the gentleman will yield further, I think under the circumstances those of us who support the gentleman from New Mexico ought to urge him to continue to speak on his amendment, awaiting perhaps an amendment to the amendment or a substitute. Let us correct the committee bill one way or another. Such action is necessary.

Mr. MORRIS. I thank my friend from Michigan.

The CHAIRMAN. The time of the gentleman from New Mexico has expired.

The Chair recognizes the gentleman from Nebraska [Mr. MARTIN].

The Chair recognizes the gentleman from Arizona [Mr. RHODES].

The Chair recognizes the gentleman from Ohio [Mr. AYRES].

SUBSTITUTE AMENDMENT OFFERED BY MR. AYRES

Mr. AYRES. Mr. Chairman, I offer a substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. AYRES as a substitute for the amendment offered by Mr. MORRIS: On page 46, line 25, strike the word "year" and insert in lieu thereof the words "two years".

The CHAIRMAN. The gentleman from Ohio is recognized for 3 minutes in support of his amendment.

Mr. AYRES. Mr. Chairman, I take this time, first, to thank the chairman of our full committee, the chairman of the subcommittee, the gentleman from New York, and the gentleman from Pennsylvania, respectively, for accepting the substitute to the amendment offered by the gentleman from New Mexico [Mr. MORRIS]. All this amendment would do is cut the period back to 2 years from the 3-year period that was in the amendment offered by the gentleman from New Mexico.

This committee has worked very hard and, I might say, the chairman of the subcommittee has been very fair. There have been moments of tension, but there have also been moments of compromise which make for good legislation. I am very happy that the chairman of the full committee, the gentleman from New York [Mr. POWELL], has agreed to accept this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri [Mr. JONES].

Mr. JONES of Missouri. Mr. Chairman, may I have the attention of either the chairman, or the chairman of the subcommittee, to answer a question for me?

Mr. DENT. Yes, sir.

Mr. JONES of Missouri. I ask the chairman, the gentleman from Pennsylvania [Mr. DENT], to explain something I do not quite understand.

For instance, the substitute amendment would say "not less than \$1.40 an hour for the first 2 years."

Would that be 2 years before we would go from \$1.25 to \$1.40? Is that correct, if the substitute amendment carries?

Mr. DENT. No. As I understand the substitute amendment, it would mean the effective date of February 1, 1967, would see the \$1.40 come into effect. It would remain in effect until 2 years later, 1969. At that time it would go to \$1.60. If we take the substitute, under the Morris amendment, it would go to \$1.60 in 1970. This is just an explanation of what the gentleman has asked. It does not mean I approve it.

Mr. JONES of Missouri. I understand that.

It seems to me we are going too far too fast. I call the attention of Members to what I stated on the floor at the time we were voting on medicare. Some of the people now are beginning to realize that if we had taken that in a little more orderly manner and on some more reasonable steps, we would not be facing the situation we are going to be faced with on July 1 of this year.

I call attention to the fact that even if we go to \$1.35 at the end of the first year, that would be an 8-percent increase over the present minimum wage. That 8 percent would be more than twice the standards that have been set by the President to try to avoid inflation.

I am hopeful some of the experts in this line will offer an amendment raising it to \$1.35, and then to \$1.45, and then to

\$1.60. Then we would be able to keep up with the inflation we are in now. In fact, the way it is going now, we are increasing this minimum wage at twice the rate at which inflation is going. So this will have only one effect, and that is to make the inflation speed up more rapidly. We are going to have a spiraling inflation, rather than just a gradual increase.

I would like to vote for a minimum wage bill that is reasonable, to the extent that the economy can accept it.

It has been repeated on this floor many times, and I will say it again: Anyone who has had any experience in hiring labor in an area such as that in which I live will find he cannot go this fast without throwing a lot of people out of work and throwing them on the Government dole.

The CHAIRMAN. The chair recognizes the gentleman from Arizona [Mr. RHODES].

(Mr. RHODES of Arizona asked and was given permission to revise and extend his remarks.)

Mr. RHODES of Arizona. Mr. Chairman, as a result of the efforts of the Republican members of the Education and Labor Committee, the increase in the minimum wage under H.R. 13712 is far more realistic than that provided by the broad and sweeping provisions of the bill that was reported last year. By postponing the first step of this increase until February 1, 1967 and the second until February 1, 1968, the impact of the increase has been minimized. The impact can and should be further minimized by stretching out the increase over a 4-year period. For this reason, I urge that the amendment of the gentleman from New Mexico be adopted. Also, the delay in the effective date will provide the Johnson-Humphrey administration an additional period within which to place its fiscal house in order, curtail nonessential spending, and balance a runaway budget. Unless these steps are taken, the contemplated increase in the minimum wage may fan the inflationary flame and the gain in earnings will be wiped out by another advance in the cost of living. Thus, I call upon the administration to take immediate and appropriate action.

In this period of rising inflation, those individuals who earn the least suffer the greatest hardship. A recent Department of Labor report reflects that a family with an annual income of \$2,000 to \$3,000 spends 28.4 percent of its income for food, 34.1 percent for housing, and 8.2 percent for clothing. These, of course, are the very items that have experienced the most dramatic increase. Thus, for these families, a reduction in purchasing power means a reduction in essentials. The increase in the minimum wage contemplated by H.R. 13712 will counter this tragic result. Certainly, those on the lower rung of the economic ladder should not be forced to bear the brunt of the administration's spend-thrift policies.

There is mounting evidence that the minimum wage concept adopted in the

depression year of 1938 is today antiquated and out of date. These are indications that the present legislation may even be hurting many of the people whom it is intended to help. Certainly, reform and modification are long overdue. Unfortunately, under the present ritualistic manner in which amendments are adopted, many questions and considerations, no matter how important, are subordinated to the question of the minimum wage increase. As a result, essential changes and modifications are either given short shrift or used as trading material. Thoughtful and careful consideration is postponed until the next time a minimum wage increase is considered and then the pattern of the past is repeated.

For example, although study after study has reflected that it is the individual with little or no education, few skills, or an age handicap who experiences the greatest unemployment, this bill ignores this problem. I therefore urge that the Education and Labor Committee undertake a detailed study and investigation to determine the extent and scope of the adverse effect the present minimum wage many have on the job opportunities for those who are experiencing the greatest difficulty in finding and keeping employment.

In this connection, I note that the September 1965 report of the Committee for Economic Development stated:

The present concentration of unemployment reflects in large measure a failure of the wage structure to adapt to the present structure of worker productivity. One reason for this is the legal minimum wage established by the Federal Government and by some States.

Greater flexibility is needed now in permitting exceptions from the legal wage for categories of people among whom unemployment is particularly high, such as the young. In the future, the legal minimum should not be raised in a way that would limit the employability of the unskilled.

Similarly, many economists have called for a split-level Federal minimum wage that would provide a lower minimum in certain cases. They see this two-level Federal minimum wage as accomplishing a threefold task. It would help reduce unemployment. It would make the inexperienced and those with an age handicap more attractive to potential employers. And it would relieve labor shortages brought on by the administration's escalation of the Vietnam war.

Significantly, a recent report by the Bureau of Labor Statistics dramatically illustrates that finding the first job is the biggest problem for most unemployed youth. According to this report, 70.6 percent of the unemployed who were 18 and 19 years of age were looking for work for the first time. On the other hand, only 21.9 percent of the unemployed who were 20 years and over fell into this category.

I am also concerned that the inclusion of agricultural workers may have grave and irreparable consequences. At the present time, the American farmer is caught in a serious cost-price squeeze.

Many farm operators are being driven from the land and those that remain are forced to obtain labor-saving devices and costly machinery. As a result, farm jobs are being eliminated at an alarming rate and many of the unemployed and unskilled farmworkers are required to leave the rural areas and to move into the already crowded city slums.

The Secretary of Labor recently announced an intensive training program for 9,325 persons after receiving reports of a 66-percent unemployment rate among Negroes in the Mississippi Delta because of displacement by cotton-picking and cotton-cultivating machines. In the event the provisions of H.R. 13712 pertaining to agricultural coverage are enacted, there undoubtedly will be many more instances of hardship and unemployment among agricultural workers.

This bill continues to erode, if not destroy, the distinction between interstate and intrastate commerce by extending the coverage of the Fair Labor Standards Act to many small businesses that are locally owned and not really involved in interstate commerce. In 1961, the Republican members of the Education and Labor Committee, concerned by the long-range implications of the proposed extension of coverage, stated that that bill "must be viewed for what it really is, a long step toward bringing all American business, irrespective of size and location, within the reach and restrictions of the Fair Labor Standards Act." Now, the next step has been taken. This bill extends the coverage of the act to every retail store that has as little as \$250,000 in gross annual sales. This extreme extension of coverage should be eliminated.

Certainly, appropriate amendatory action should be taken before this bill is enacted into law. Moreover, the investigation of the effect of the minimum wage legislation on the unemployment problem must be instituted as quickly as possible. The employability of many individuals depends to a great extent upon the wage at which they can be hired. The wage level can be raised to a point where employment becomes economically impossible. In this critical period of explosive dissatisfaction and hardcore unemployment, productive and meaningful jobs are needed, not more and more antipoverty programs and costly governmental make-work projects. Employment and hope must be substituted for idleness and despair.

Under the present circumstances, I support an increase in the minimum wage. I believe that if the bill is modified as I have suggested, it should not pose an inflationary threat provided the Johnson-Humphrey administration immediately undertakes essential fiscal reforms. Without question, the low-income families who will benefit from this increase need additional money to keep from going under the ever-mounting inflationary tide.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia [Mr. JENNINGS].

(Mr. JENNINGS asked and was given permission to revise and extend his remarks.)

Mr. JENNINGS. Mr. Chairman, I want to say at the outset that I intend to support passage of this minimum wage bill. I have supported minimum wage during my tenure in Congress. But, I really believe if we take a look at the chart here, we will conclude that this compromise is the best for the economy.

The gentleman from New Mexico desires to extend this over a 36-month period. I had an amendment to his amendment at the desk which would make this over a 24-month period, rather than a 36-month period. That is the amendment suggested by the gentleman from Ohio [Mr. AYRES].

It seems to me this is more logical, because it is a gradual increase and more or less follows the same pattern that has developed over the years. I believe this is a good compromise.

I believe that we should adopt amendments when they are warranted, as in this case.

There will be arguments made that we should not change, that this was some commitment previously made, and that we should not tinker with it now. But, let us look at the change. It will go to \$1.40 just as proposed under the bill at the beginning of 1967, but it will then go to \$1.60 over a 2-year period rather than over a 1-year period.

This is a 20-cent increase. We are taking a long gamble. If we continue with favorable economic indicators and the gross national product continues to expand, perhaps we could absorb this entire amount in a year's time. I am not arguing it could not be done. However, I believe we should take it up with gradual, even speed.

I support the substitute amendment. I believe it is a reasonable compromise. I hope the substitute to the amendment of the gentleman from New Mexico will be adopted.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. GOODELL].

Mr. GOODELL. Mr. Chairman, I support the original Morris amendment. I certainly would support the Ayres substitute. I believe the Ayres substitute is a very reasonable proposal.

The substitute would elongate the period we will take to go from \$1.40 to \$1.60. I personally feel that the 12-month period to go from \$1.40 to \$1.60 is too fast. We have a difficult situation, because I believe this 20-cent increase in a 12-month period would be the greatest increase ever had in the minimum wage.

We should be very careful to evaluate the ultimate impact of this kind of legislation as to whether it will provide fewer jobs for the nonskilled, as to whether it will increase inflation, as to whether it will increase the number of businesses which must close their doors and therefore be unable to offer jobs to their employees any further.

I urge that we adopt the Ayres amendment as a reasonable proposal.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. GERALD R. FORD].

Mr. GERALD R. FORD. Mr. Chairman, 2 weeks ago I believe it was a foregone conclusion that the committee bill

in this respect probably would be maintained, but in the interim two things have transpired which have resulted in the change of sentiment we see on the floor today.

First, the chart and the explanation which was circulated by the gentleman from New Mexico pointed out very graphically the impact that this proposal in the committee bill would have. The chart illustrated how the increase in 12 months from \$1.40 to \$1.60 would be far more drastic than most people expected and more drastic than had been done by the Congress on previous occasions.

However, I believe a second factor has contributed to the change of atmosphere today.

Last Friday the Department of Labor released the latest Consumer Price Index figures. As all of us here know, the release for the month of April indicated there has been a 0.4 increase in the cost of living. The Consumer Price Index figures showed for the months of April, March, and February we have had the greatest increase in any 3-month period since 1951. We know as a result of these figures released by the Department of Labor that we are in an escalating inflationary period. We know that there is no prospect in the months ahead that the administration will do anything effective about it. Therefore, since this legislation as recommended by the committee will add to inflationary pressures, I therefore support the Ayres substitute to the Morse amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. DENT] to close debate on this amendment.

Mr. WILLIAM D. FORD. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Michigan.

(Mr. WILLIAM D. FORD asked and was given permission to revise and extend his remarks.)

Mr. WILLIAM D. FORD. I rise vigorously to oppose both the Morris amendment and the so-called compromise thereto.

The proposal of the gentleman from New Mexico now contained in his amendment was transmitted to each of us, several days ago. After careful study of his proposal to stretch out the schedule of increases in the minimum wage level.

These proposals for a further unreasonable delay in reaching what I consider to be an already inadequate wage floor of \$1.60 would be an added perversion of a bill, now so watered down and in insipid that even the most reactionary opponents of a decent minimum standard of living for all Americans have exhausted their supply of crippling amendments.

An examination of the correlation of average factory workers' wages to the minimum wage level for covered employees for the period from 1938 through 1968, as projected under H.R. 13712 without further delay in reading the \$1.60 minimum shows that the gap between these two figures has progressively increased. In other words, average factory wages, which more nearly parallel

the increase in the cost of living during the same 30-year period, have consistently risen in advance of and more rapidly than the minimum wage level.

This legislation is intended to assist most those people at the very bottom of the scale of earnings. There can be no doubt that these wage earners and their dependents suffer most severely from the lag I have described.

How then can we in good conscience accept an amendment, in either form proposed here, the effect of which would be to further delay the increases scheduled in this bill to the detriment of those families most in need of its assistance.

Mr. Chairman I would ask you and all the members of the house to reject the spurious assertions made by our Republican colleagues that enactment of H.R. 13712 would aggravate and escalate the cost of living and be inflationary.

I offer for your consideration, the following letter from the Chairman of the Council of Economic Advisers to the chairman [Mr. DENT], and I read:

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS,
Washington, D.C., May 19, 1966.

HON. JOHN DENT,
House of Representatives.

DEAR MR. DENT: This is written in answer to your request for our views on H.R. 13712, the Fair Labor Standards Amendments Act of 1966.

The President's Council of Economic Advisers believes that the enactment of H.R. 13712 will benefit the welfare of the Nation. The enactment of the bill will represent a major step in the process of eliminating substandard wages and working conditions, without imposing significant or abrupt cost increases on employers. Thus, the content of H.R. 13712 reconciles the goals of our social policy with the vital objectives of noninflationary prosperity for the American economy.

Providing the protection of the minimum wage to the American worker has been an important element in our national policy for almost 30 years. Underlying this policy has been the recognition that some segments of our labor markets work imperfectly and that many workers are at a disadvantage in bargaining with their employers. But in recent years, the protection has applied to a smaller proportion of private nonsupervisory workers than was the case in 1938, when the Fair Labor Standards Act was passed. Moreover, the level of the minimum wage has not kept pace with our economic advances. The enactment of H.R. 13712 will rectify these developments. The extension of the coverage of the Fair Labor Standards Act will bring for the first time the protection of the minimum wage to about 7 million workers in services, trade, and agriculture. And the increase in the minimum for those already covered by the FLSA will make an important contribution toward the elimination of labor conditions that are inconsistent with the rising standards of earnings that characterize the majority of the American labor force.

An important feature of H.R. 13712 is that its enactment will not hamper our policy designed to preserve stability of costs and prices. First, the provisions of the bill will become effective in two stages—February 1967 and February 1968; the timing makes possible a gradual adjustment without causing disruptive cost pressures. Secondly, the minimum wage for the newly covered worker begins with a very modest figure of \$1.00 and rises gradually over a period of 4 years.

The minimum wage increase proposed by H.R. 13712 for those already covered by the FLSA reflects appropriate concern for the

standards of noninflationary behavior of wages. As you know, the Council's wage guidepost provides for a specific exception in those cases "where wages are particularly low—that is, near the bottom of the economy's wage scales." The wages of those actually affected by minimum wage protection obviously fall into this category of exceptions to the guidepost, and therefore should move up at a more rapid pace than the economy's productivity trend. Only then can our least advantaged workers move closer to the average standards of prosperity enjoyed by the Nation's labor force. When one considers the time span since the last increase in the minimum wage in 1963 and the timing of the increases scheduled by H.R. 13712, the rate of increase appears entirely reasonable for this particular type of exception to the guideposts.

In view of all these factors, the enactment of H.R. 13712 is essential and will make an important contribution to social and economic welfare.

Sincerely,

ARTHUR M. OKUN,
Acting Chairman.

Thank you, Mr. Chairman. I urge the defeat of the Morris amendment and the Powell-Morris compromise or substitute.

Mr. DENT. Mr. Chairman, a famous American once said what is good for General Motors is good for the United States. Evidently today they are carrying that philosophy here. This is the General Motors amendment in that all it does is cover those who were covered in 1938 and reduce the percentage impact for General Motors, for Ford, for the A. & P., and for all of the big chain stores. But these little laundry workers who have been bleeding and all of these little people you say cannot afford the increase—no one says a word about the impact on them. You are letting them alone. Maybe they could not afford the right kind of propaganda to come before Congress and fight for their little interests.

What does this do? It simply says instead of paying \$1.40 in 1967 and \$1.60 in 1968, well, we are going to let General Motors and all of these very poor corporations stay put, stay put, until 1969 under one amendment and until 1970 under the other. Let me tell you all something. The gentleman from Michigan [Mr. GERALD R. FORD] talked about this increase in the cost of living. You know, there is nothing in the increase in the cost of living that excludes from that increased cost this poor little devil making 80 cents an hour. If the statistics went up 0.4 percent last week, he had to pay the same as the General Motors worker.

You must be realistic. Do not blame the minimum wage for the increase. They have not had it. The gentleman from Michigan said this was the greatest increase in 3 months at any time in the last 100 years or I do not know how many years. There has not been a minimum wage. This has not even passed yet. Already he has been stuck with that particular increase in the cost of living, and the only way he can get it is through the legislative processes, because the humane employer will not give it to him. The best chance is the Morris amendment. He says we cannot afford it. I want to tell you one thing. I am paying a lot more for my Lincoln than I paid

when the minimum wage law passed in 1961.

Mr. GOODELL. Mr. Chairman, will the gentleman yield?

Mr. DENT. No. I cannot yield. I only have 3 minutes.

I would like to have you go along with me, but I am afraid you will not. And everybody else has been paying for it. Yet we have not increased the minimum wage. Do not take this for what it seems to be. This is like the old question, which comes first, the chicken or the egg. The poor little fellow is going to pay for this increase in the cost of living, but you say that is all right; we are not going to fix it so he can pay his bills.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Ohio.

The question was taken; and the Chair announced that the yeas appeared to have it.

The question was taken; and on a division (demanded by Mr. AYRES) there were yeas 105, yeas 88.

Mr. DENT. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. AYRES and Mr. BURTON of California.

The Committee again divided, and the tellers reported that there were—yeas 160, yeas 121.

So the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico as amended by the substitute amendment of the gentleman from Ohio [Mr. AYRES].

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. AYRES

Mr. AYRES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. AYRES: On page 51, strike out lines 4 through 9, inclusive, and insert in lieu thereof the following:

"(e) (1) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof), every employer providing any contract services (other than laundering or related cleaning services) under a contract with the United States or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965 (Public Law 89-286) or to whom subsection (a) (1) of this section is not applicable, wages at rates not less than the rates provided for in subsection (b) of this section.

"(2) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof) and the provisions of the Service Contract Act of 1965 (Public Law 89-286), every employer in an establishment providing laundering or related cleaning services to the United States or under a contract with the United States or any subcontract thereunder shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (b), except that if more than 50 percent of the gross annual dollar volume of sales made or business done by such establishment is derived from providing such laundering or related cleaning services under any such contracts or subcontracts, such employer shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (a) (1) of this section."

Mr. AYRES (interrupting the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD, because the real meaning of the amendment has already been stated.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

The Chair hears none, and the request is agreed to.

There was no objection.

The CHAIRMAN. The gentleman from Ohio is recognized for 5 minutes in support of his amendment.

Mr. AYRES. Mr. Chairman, first, I want to again commend the chairman of the subcommittee and the gentleman from California [Mr. BURTON] and the gentleman from Michigan [Mr. O'HARA]. Briefly, the amendment would do this: Section 305 of the pending bill requires an employer who performs any contract service under a contract or subcontract with the Federal Government to pay all of his employees not less than the highest minimum wage rate applicable to presently covered employees. My amendment would change that requirement for employees of Federal Government service contractors working in the laundry and linen supply business. All such employees who are presently covered would receive not less than the highest minimum wage applicable to presently covered employees. All the rest of such employees, whether newly covered or exempt would receive not less than the minimum wage applicable to newly covered employees.

If more than 50 percent of the annual dollar volume of an establishment in the laundry and dry cleaning industries consists of performing contract services for the Federal Government, all the employees of such establishment would receive not less than the highest minimum wage applicable to presently covered employees, \$1.40 beginning February 1967.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. AYRES. I yield to the gentleman from California [Mr. BURTON].

Mr. BURTON of California. Mr. Chairman, as I understand it, the language "laundrying or related cleaning services," is intended to include laundrying or cleaning of clothing or fabrics, and does not include any other type of cleaning such as janitorial services and the like. Is this understanding correct?

Mr. AYRES. The understanding of the gentleman is correct.

Mr. BURTON of California. As I understand it, this amendment's sole purpose, except as to employees of laundrying and related cleaning services, is to apply the section 6(b) rates to those employees or employers having Government service contracts whose rates of pay are not determined by the provisions of the Service Contracts Act of 1965 or by section 6(a) (1) of the Fair Labor Standards Act.

The section 6(a) (1) rates would continue to establish the minimum rates for employees of Government service contractors, except those providing laundrying and related cleaning services under contract with the United States.

With respect to employees in an establishment providing said laundrying and related cleaning services, said employees will be paid wages set in section 6(b) of the FLSA, unless more than 50 percent of the gross annual dollar volume of sales made or business done by such establishment is derived from providing such laundrying or related cleaning services under any such contracts or subcontracts, in which events the 6(a) (1) rate would prevail.

Mr. AYRES. That is correct. This applies directly to the employees who work directly with laundry and cleaning services. We tried to say, in drafting the amendment, that if an establishment did more than 50 percent of its gross business under Government contract then it was primarily in the Government contract service business. Therefore any other business would be secondary. But in the event they had a smaller percentage that was under Government contract, the bulk of their business would be outside of Government work.

We all know how impractical it has been in the linen-supply business to try to determine who is working on which job. In fact, the Secretary of Labor has ruled that, in the event a laundry is doing Government work, all employees should be paid the higher rate, because it is impossible to determine who is working on a Government tablecloth and who is working on one from a hotel.

Mr. Chairman, I ask the gentleman from California, if, in his judgment, by taking the 50-percent figure, we will correct the difficulties that have occurred in the past?

Mr. BURTON of California. I would like to commend the gentleman from Ohio for his diligence and effort in this field. However, as the gentleman knows, we have had somewhat different views on this matter. I believe that all those actually working on a Federal service contract should receive the higher minimum. The linen-supply problem is a most difficult one and the gentleman's amendment highlights this difficulty.

Mr. AYRES. I thank the gentleman for his observation.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. DENT] is recognized for 5 minutes.

Mr. DENT. Mr. Chairman, if the Rules Committee members will remember, I was asked the question before the Rules Committee, as to what we intended to do because of the apparent conflict between the provisions of this act and the provisions of the O'Hara bill. I discussed the matter with the gentleman from Michigan [Mr. O'HARA].

We came to an agreement whereby we would put into this legislation practically the same provisions that obtained insofar as coverage is concerned in the Walsh-Healey Act, in that only those employed under the Government contract would be covered by the O'Hara bill. The rate under the O'Hara bill is the statutory minimum or prevailing wage, whichever is greater. In order to do that, we propose an amendment which will eliminate from coverage under the O'Hara bill the new coverage we put in, in the restaurant field and other newly covered

industries. That is all we intended to do with this amendment.

I understand there has been some discussion between the two Members on this side and Mr. O'HARA. Whatever agreements they have come to will be disclosed on the floor, in that they will attempt to alleviate the problems that are peculiar to the clean-linen industry and other laundry industries, until we have a longer period of time for study.

Mr. O'HARA of Michigan. Mr. Chairman, I move to strike the requisite number of words.

(Mr. O'HARA of Michigan asked and was given permission to revise and extend his remarks.)

Mr. O'HARA of Michigan. Mr. Chairman, I appreciate the efforts the gentleman from Ohio has made to limit the effects of his amendment, but I must advise the Committee that I still oppose the amendment, for whatever that is worth.

Mr. Chairman, many years ago the Congress enacted legislation known as the Davis-Bacon Act to provide that on all Government construction contracts those mechanics employed on such contracts would receive the prevailing wage for their kind of work in that area.

Then the Walsh-Healey Public Contracts Act was passed. It said that those working on Government supply contracts would have to receive at least the prevailing wage in that industry.

That left a gap in the coverage of the prevailing wage concept on Government contracts. Neither the Davis-Bacon Act nor the Walsh-Healey Act provided any prevailing wage protection for those who worked on Government contracts for the provision of services such as driving mail from one community to another or sweeping out a Federal building, or whatever it might be.

The Service Contracts Act of 1965, which I had the privilege of sponsoring—which came from the Committee on Education and Labor unanimously, which passed the House of Representatives unanimously, which went through the Committee on Labor and Public Welfare of the Senate unanimously, and which passed the Senate unanimously—did exactly that.

The amendment offered by the gentleman from Ohio attempts to do something the Congress has never done before, which is to create an exception to the prevailing wage concept in Government contracting.

Mr. Chairman, for this reason I am opposed to the amendment. I do not deny that there is a difficult situation confronting the linen industry, but there is also an answer to it within the Service Contracts Act.

We know, from the work we have done in the past 2 days on this bill, what happens when we start to create exceptions and exemptions to wage standards bills.

In the Service Contracts Act there is an answer to the problem raised by the gentleman from Ohio, in section 4(b):

The Secretary may provide such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this Act as he may find

necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business.

The linen supply industry just last week went to the Secretary of Labor and presented their case to him. The example given by the gentleman from Ohio the day before yesterday, when he indicated he was going to present this amendment, all presented cases in which the conclusion was that the linen supply companies were going to quit bidding, that there were going to be no more bids on Government work by them. That presents a classic case of the kind of situation in which the exception provision could be applied by the Secretary of Labor.

I do not believe we ought to take a course we have never taken with respect to the Davis-Bacon or the Walsh-Healey Act by carving out an area of exemption or exception in the Service Contracts Act.

Mr. Chairman, I hope the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. AYRES].

The question was taken; and on a division (demanded by Mr. AYRES) there were—ayes 104, noes 68.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. HAGEN OF CALIFORNIA

Mr. HAGEN of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAGEN of California: On page 48, line 3 strike the period and the quotation marks and add a colon and the following: "Provided, That in the case of workers employed by a farmer on a piece rate basis, if all the workers employed by such farmer on a piece rate basis have average earnings that equal or exceed the required hourly wage as provided above, the employer shall be considered to be in compliance with this section."

Mr. HAGEN of California. Mr. Chairman, first I want to commend the gentleman from Pennsylvania [Mr. DENT], the chairman of the subcommittee which produced this legislation, for the excellent job he has done and the knowledge he has displayed of many different fields of labor.

I have an amendment here which I trust is not controversial and which I discussed with the honorable gentleman from Pennsylvania [Mr. DENT] yesterday and which he seemed, to me at least, to accept in principle. Essentially all this amendment does is to provide that in judging compliance with the minimum wage of farm workers that the farmers who use a piece rate basis as a method of payment would be able to comply by paying a piece rate high enough to yield the average of all his piece rate workers an hourly rate which is equal to or in excess of the dollar minimums established in this bill.

As I stated earlier, I discussed this with Mr. DENT yesterday, and he seemed to accept it in principle. He seemed to think that the bill itself provided it. Quite frankly, I think we should spell out clearly in the bill this alternate method of compliance. I may say that

this principle has been endorsed by the Secretary of Labor, Mr. Wirtz, in the Florida citrus situation, and he has brought back glowing reports of its value to the workers and employers in that situation.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. HAGEN of California. I yield to the gentleman from Pennsylvania.

Mr. DENT. Maybe I am getting a little weary. Like the girl in the play Oklahoma, I am getting to the point where I cannot say no. Very frankly, though, I would appreciate it very much if the gentleman would not insist on his amendment at this time. I cannot honestly say that the interpretation you and I placed on this yesterday is correct. The Secretary of Labor has confused the issue a little with the statement he made on the adverse effects doctrine. Unless we can get that straightened out we will not be able to vote intelligently, in my opinion, on this amendment. If the gentleman will refrain from insisting on the amendment, I will work with him and we will go to the Senate together, if it is workable, and try to ask the Senate to put it in the bill.

Mr. HAGEN of California. I thank the gentleman, and will agree to that procedure. Therefore, I ask that my amendment be withdrawn.

I would like to comment further, however—

Mr. DENT. Mr. Chairman, will the gentleman yield just 1 minute?

Mr. HAGEN of California. I yield to the gentleman from Pennsylvania.

Mr. DENT. I do not mean that the Secretary of Labor confused the issue. He confused me.

Mr. HAGEN of California. Mr. Chairman, with that assurance that this amendment is not prejudged unfavorably by the very able chairman, the very able gentleman from Pennsylvania [Mr. DENT], I would ask unanimous consent that it be withdrawn.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. HAGEN of California. Certainly.

Mr. TEAGUE of California. I have asked the gentleman from California to yield to me just for this purpose: This is a most commendable and reasonable amendment. I am glad to hear that there will be a good faith attempt to work it out with the Senate.

I am inclined to think that it should be passed here, but if the sponsor of the amendment thinks it should not be pressed, I, personally, will not object or offer it, but I do want to express my support for it and to say that I am one who is not in favor of eliminating agriculture from this bill. I expect to vote for the bill on final passage.

Mr. Chairman, this is a most important provision, and it is highly important that it be worked out in the other body or in conference.

There is no question about the fact that, for example, the older person who might not want to work every minute of every hour and not want to work for a half-hour and sit down for a half-hour in the harvesting of fruits and vegetables

and earn 75 cents, 80 cents, or 90 cents an hour, still may have a job.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. HAGEN of California. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. FOLEY. Mr. Chairman, reserving the right to object, and I shall not object, I make this reservation to commend the gentleman from California [Mr. HAGEN] for his concern that this bill reflect clearly the status of piecework.

Mr. Chairman, in my own district there is a substantial horticultural industry which without question, pays substantially above the minimum wages contemplated by this bill. I feel that any industry which is paying very adequate wages by the piecework method should be permitted to continue this method of computing compensation, and I commend the gentleman from California and the chairman of the committee, the gentleman from Pennsylvania [Mr. DENT], in being concerned that this bill reflect clearly permission for this system to continue. However, if any further clarification is necessary, I shall support the gentleman from California and the chairman to make the intention of the Congress absolutely plain.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. HALL. Mr. Chairman, reserving the right to object, I simply want to establish in the Record the fact that perhaps the apologies will not need to be so profuse, especially as to which comes first, the hen or the egg, nor would the confusion reign quite as supreme were not the Secretary of Labor in the Gallery, in the Speaker's box, with one of the entrepreneurs or barons—so called—of organized labor, listening to this debate.

Certainly they have the right to be there as all citizens of the United States do, but this further gives effect and substance to the frequent claim of arm twisting and confusion visited on the Congress, by the members of the appointed Cabinet of the President of the United States. It is questionably of the best interest to the separation of powers, the legislative function, and the working of the will of the people by this body of the Congress. One is known by the company he publicly keeps.

Mr. Chairman, I withdraw my reservation.

The CHAIRMAN. Is there objection to the request of the gentleman from California that he be permitted to 3 additional minutes?

There was no objection.

Mr. HAGEN of California. I wish to say one reason, Mr. Chairman, I am withdrawing this amendment at this time is I think it can be refined further.

Under the bracero program which is now a thing of the past, they did have a formula similar to this. But it was more refined so there was not what the gentleman from California [Mr. COHELAN] calls the dumbbell effect where

you might have a number of high wage level workers at one end overbalancing the thing and too large a percentage of less willing or efficient workers not receiving the minimum possible.

I think it will be in conference with the other body to arrive at an agreement on a refined formula which will do exact justice and permit the employment of people who might be unemployable elsewhere, for example, on a piece rate basis which will not unduly burden the farmer but which will guarantee to all willing and efficient farmworkers who are working on a piece rate basis that they will receive at least the minimums established by this bill. Yesterday we recognized the validity of a piece rate formula for wages in agriculture by adopting the amendment of the lady from Oregon [Mrs. GREEN].

The necessity and work of piece rates have been validated by practice and even by the judgment of Mr. Wirtz, the Secretary of Labor in the Florida case.

The reason for the necessity is the fact that the contrast between the low valleys and high peaks of farm labor requirements requires resort to part-time workers who are either unskilled or partially disabled or pin money workers. The farmer can afford to use them on a piece rate basis. He cannot use them under high flat dollar minimums at the same time that it provides job opportunity to these people, a piece rate, fairly established, provides more than minimum earnings to more qualified and regular farm employees. It is fair to the farmer, the regular farmworker, and permits employment of the casual part-time farmworker.

AMENDMENT OFFERED BY MR. GURNEY

Mr. GURNEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GURNEY: Page 48, line 5, insert "(a)" immediately after "Sec. 303.", and, after line 24, insert the following new subsection:

"(b) Section 6(a) of such Act is amended by adding after paragraph (5) (added by section 302 of this Act) the following new paragraph:

"(6) If such employee is employed in an establishment which is a hotel, motel, or restaurant, not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during the second year from such date, and not less than \$1.30 an hour thereafter."

Page 48, line 8, insert "or (a) (6)" immediately after "subsection (a) (5)".

Page 48, line 3, strike out the period and insert "; or".

The CHAIRMAN. The Chair recognizes the gentleman from Florida [Mr. GURNEY] in support of his amendment.

(Mr. GURNEY asked and was given permission to revise and extend his remarks.)

Mr. DOLE. Mr. Chairman, will the gentleman yield?

Mr. GURNEY. I yield to the gentleman from Kansas.

(Mr. DOLE asked and was given permission to revise and extend his remarks at this point.)

Mr. DOLE. Mr. Chairman, I had seriously considered offering an amendment to H.R. 13712, but after consulting with

the Parliamentarian and the Legislative Reference Service of the Library of Congress, I am convinced my proposed amendment would not be germane. The purpose of the amendment would be to amend section 306 of H.R. 13712 to bring members of the Armed Forces now serving in combat areas under the provisions of the Fair Labor Standards Act.

The proposed amendment is as follows:

On page 51, line 15, before the word "employee", insert the words "individual or".

On page 51, line 25, after the word "States", insert the following paragraph:

"(3) or who is a member of the Armed Forces of the United States and is on active duty in any area of the world in which actual hostilities occur or which constitutes a combat zone, after computation of all pay and allowances."

There has been much discussion on the floor about the merits of this legislation. Nearly every effort to exempt a specific segment of the economy has been defeated. The proponents have stated many, many times that the employer can well afford to pay the minimum wage prescribed in this bill. If this argument is sound, then it should apply to the U.S. Government as an "employer" with reference to members of the Armed Forces now serving in combat zones around the world.

A review of the hearings before the House Committee on Armed Services in June of 1965, graphically illustrates the fact that thousands of young men in the armed services are not receiving the present minimum wage. If H.R. 13712 is enacted, as presently written, the differential would be even greater. In other words, the combat soldier, in far too many cases, will receive less than the hourly minimum wage proposed in this legislation.

Considering basic pay and other allowances, it is estimated that a combat soldier on duty 60 hours a week receives between 60 and 75 cents per hour. In Vietnam at the present time, it is likely the average GI puts in many 7-day weeks and many 12-hour days. The point is that the pay is low, and the debate on this measure clearly indicates a need to upgrade the pay and allowances received by American servicemen serving in a combat zone.

In addition, there are many basic weaknesses in H.R. 13712. Perhaps the most glaring is the inclusion of agricultural workers under coverage for the first time. The general increase to \$1.60 an hour far exceeds the guidelines set down by the President; but the inclusion of agriculture is perhaps even more significant.

In the first instance, it should be made clear that the American farmer is not opposed to paying reasonable wage rates, but is opposed to being subjected to further control by another Federal agency, this time the Department of Labor.

The wage rates for agricultural employees in this bill provide for a minimum of \$1 per hour beginning February 1, 1967, \$1.15 on February 1, 1968, and \$1.30 on February 1, 1969, if 500-man days are performed per quarter. While this provision of H.R. 13712 will not immediately affect many farmers in the

State of Kansas, the agricultural provision coupled with other provisions affecting the small businessman are not, in my opinion, in the best interests of rural America. The day is fast approaching when every man, woman, and child in every conceivable pursuit will be covered by the Fair Labor Standards Act and under the jurisdiction of the U.S. Department of Labor.

Mr. GURNEY. Mr. Chairman, this amendment does this—it would put the hotel, motel, and restaurant workers in the same wage status under this legislation as the agricultural workers are placed.

It seems to me there is a good sound argument why this should be done. In the first place, both categories of workers are newly covered in this legislation, although we have had minimum wages in the Nation for 25 years. Both of these classes of workers are special sort of workers. There are fringe benefits in both areas. In the motel, hotel, and restaurant area, of course, there are fringe benefits such as tips that have been recognized in the bill. Some of the employers furnish clothing. Many of them furnish food and shelter. So they are indeed a special category of workers.

As a matter of fact, that is probably one of the principal reasons why they were not covered before in a minimum wage bill. So I think newly covered as they are, we should give these workers the same benefits so far as coverage is concerned as we are giving the agricultural workers.

Now what are these rates? In the bill the new workers who are brought in go steps from \$1 to \$1.60. What I am asking in the amendment is that they should go to \$1, \$1.15, \$1.30 just as the agricultural workers do.

It occurs to me there are two reasons why this is important. We all know that in the hotel, motel, and restaurant field, we do have many marginal workers, people who perhaps could not be gainfully employed in any other kind of business because they are not very productive. But because they can be furnished food and certain other fringe benefits to supplement their pay employers can give them jobs.

I say that it would be far better for us to go a little easier on these industries and cover them in the three-step stage, giving them the same consideration as the agricultural workers, and not run the risk of putting a lot of people out of work.

The other main argument, I think, lies in the nature of the business itself. I have talked to a great many restaurateurs and motel and hotel people, particularly in Florida. Our tourist and restaurant and motel industries are among the largest in the Nation. Many of them frankly tell me that they are uncertain as to what is going to happen when this bill goes into effect.

They know they will have to refine their operation in some respect. They believe that probably they will have to drop some workers. They believe that probably they will have to pass on the increased wage costs to the buying public, the people who come in and buy meals and buy rooms. In fact, I have

some statistics on that, which I do not have time to go into here.

Yesterday I pointed out—and I think it is true—that there are many economists in this country who firmly believe that minimum wage laws are not in the best interests of the marginal workers, the very people we want to protect here. They say increase of minimum wages cause their being dropped from the payroll because they cannot produce enough work to justify the minimum wage.

I submit to my colleagues in the House of Representatives that we might be a little sensible here. We should take the restaurant and motel and hotel workers in two easy steps, as we are doing in the agricultural field. I hope that my amendment will be adopted.

Mr. DENT. Mr. Chairman, for reasons that have already been placed in the RECORD on more than one occasion, I ask that the Committee oppose and vote down this amendment.

Mr. PEPPER. Mr. Chairman, I rise to oppose the amendment.

Mr. McMILLAN. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from South Carolina.

(Mr. McMILLAN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. McMILLAN. Mr. Chairman and Members of the Committee, I find it impossible for me to support H.R. 13712, which has for its purpose to amend the Fair Labor Standards Act of 1938.

I believe that the majority of the people in the United States who have an inclination to work either have a job or could certainly be working if they so desire. I also believe that the majority of the industry in the United States is paying higher salaries than the minimum rate, which certainly makes this proposed legislation unnecessary.

We are continuing in this Congress, at the suggestion of the administration, to federalize everything in the United States. We will soon have an inspector or a policeman checking on everything we do from the time we wake up in the morning until we retire at night.

The National Labor Relations Board is the most dictatorial agency connected with the U.S. Government. They do not even consider the manager or owner of an industry or business establishment.

It will only be necessary for you to check on the manner in which the National Labor Relations Board has been treating the J. P. Stevens Co., and numerous other outstanding industries in the United States, at the present time to realize this.

Even though the employees of the J. P. Stevens Co. voted against unionizing the plants, the labor unions continue to harass the management by saying that the company had mistreated labor. We all know that if this were true the employees would have voted to unionize the J. P. Stevens Co.

I have a small used parts plant in my congressional district and the National Labor Relations Board calls the employees out to talk to them, separate from the manager, in order to find out

if they happen to work a few hours overtime. To my knowledge the manager pays his employees days and sometimes weeks without calling on them to work, and then when they work a few hours overtime the National Labor Relations Board tells these employees to file for overtime pay.

I believe that the labor unions dictatorial manner in handling their affairs in this country is driving industry to foreign countries to the extent that in a few years we will have millions unemployed here in the United States.

I am unalterably opposed to including farm labor under any type of minimum wage program. There are certain seasons in the year when it is necessary for the farmer to work 15 to 20 hours each day, especially the farmer who is cultivating and processing tobacco. The remainder of the year he may not be required to work 6 hours a day.

The farmer naturally cannot pay overtime to any of his employees and certainly he cannot pay a strict minimum wage set out in the bill under consideration here today. If the farmers were financially able to pay equal wages with industry, we all certainly should have sense enough to know that the prices we pay for our clothes and our groceries would double. If the farmer is required to pay union wages to labor there is no other explanation that can be given than "You can't get blood out of a turnip." The increase in wages the farmer would have to pay would certainly be passed on to the consumer.

The United States has become a great country because of our great farmers and great industries and I believe that when the Federal Government begins to try to handle the affairs of our farmers and our industry our country is on the road to destruction.

I have used all my influence to prevent farm labor from being included in this proposed measure and I feel that the entire bill is absolutely unnecessary and I shall vote against this legislation.

Mr. PEPPER. Mr. Chairman, I respect the concern of my distinguished colleague, the gentleman from Florida [Mr. GURNEY], for the protection of the hotel and restaurant industry. I doubt if any Member of the House has a more important segment of that industry in his district than I am privileged to have. I have followed with a great deal of interest the development of this legislation as it might affect that very important industry, which is so vitally essential to the economy of my district and State.

But I want to attest that the able chairman of the subcommittee, the gentleman from Pennsylvania [Mr. DENT], has throughout the handling of this bill kept in very close contact with both management and the representatives of the employees in the hotel and restaurant industry, and generally both management and the employees agree to this bill. The employees wanted a little bit more, quite naturally, than the bill provides for them; management would have liked to have given a little less. But both have been reasonable about it, and I think the able gentleman from Pennsylvania can

attest that both management and labor have generally accepted the provisions of this bill as they are written, and will be agreeable to trying to carry out its provisions in good faith and in good spirit.

This bill goes much more slowly forward in advancing the minimum wage of the newly covered nonfarm—among them the hotel and restaurant employees the subject of this amendment, than it might well have done. For example, you will note on page 3 of the report the minimum wage of \$1 takes effect February 1, 1967. It does not go to \$1.15 until February 1, 1968, then to \$1.30 February 1, 1969; \$1.45 on February 1, 1970, and it does not reach the maximum of \$1.60 an hour until February 1, 1971. I do not think that rate of progression is unreasonable. I hope my distinguished colleague will not press for the adoption of that amendment. I believe that in the public interest and since it is generally agreeable to both employers and employees, the bill as written should be adopted and the amendment rejected.

Mr. GURNEY. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Florida.

Mr. GURNEY. I have listened with interest to the statement of the gentleman that the chairman of the subcommittee had sought the advice of people in the motel, hotel, and restaurant industry. This I do not doubt. I am sure he has, because he has done fine work in the preparation and writing of this bill.

I would like to point out that I have personally contacted the restaurant industry in Florida, and they, in turn, have polled all of their members. I can tell you their members are wholeheartedly in favor of the amendment I have offered. I cannot speak for the other parts of the industry, but I do speak to that in Florida.

Mr. PEPPER. Mr. Chairman, if I have a minute more, I had a personal conference with the representatives of the major hotels in the Miami Beach area, which is one of the important segments of that industry in Florida. Those gentlemen told me they agreed to the minimum wage provisions of this bill. They did want an adjustment made with respect to the account to be taken of tips, but we substantially met their opposition to the bill by having the 45 percent being taken for credit on the tips, as proposed by the able gentleman from Illinois.

I am confident the major portion of the industry in my district and, I believe, in Florida and the Nation, is in favor of the minimum wage provisions of this bill. I hope the amendment will be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. GURNEY].

The amendment was rejected.

Mr. DENT. Mr. Chairman, a point of information:

Are there any more amendments at the desk to title III?

The CHAIRMAN. Are there any additional amendments to title III? If not, the Clerk will read.

The Clerk read as follows:

TITLE IV—APPLICATION OF MAXIMUM HOURS PROVISIONS

Presently and newly covered employees

SEC. 401. Section 7(a) of such Act is amended to read as follows:

"(a) (1) Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

"(2) No employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this subsection by the amendments made to this Act by the Fair Labor Standards Amendments of 1966—

"(A) for a workweek longer than forty-four hours during the first year from the effective date of the Fair Labor Standards Amendments of 1966,

"(B) for a workweek longer than forty-two hours during the second year from such date, or

"(C) for a workweek longer than forty hours after the expiration of the second year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."

Commission salesman

SEC. 402. Subsection (i) of section 7 of such Act (as so redesignated by section 204 (d) of this Act) is amended by adding at the end thereof the following new sentence: "In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee."

Mr. DENT. Mr. Chairman, I ask unanimous consent that the title be considered as read and open for amendment at all points.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any amendments to title IV? If not, the Clerk will read. The Clerk read as follows:

TITLE V—STUDENTS AND MANAGEMENT TRAINEES

Student and management trainees

SEC. 501. (a) Section 14 of such Act is amended—

(1) by inserting "(a)" immediately before "The Secretary of Labor";

(2) by striking out "of messengers" and inserting in lieu thereof "and of messengers";

(3) by striking out "and of full-time students outside of their school hours in any retail or service establishment: *Provided*, That such employment is not of the type ordinarily given to a full-time employee"; and

(4) by adding at the end thereof the following new subsections:

"(b) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment

of full-time students, regardless of age but in compliance with applicable child labor laws, on a part-time basis in retail or service establishments (not to exceed twenty hours in any workweek) or on a part-time or a full-time basis in such establishments during school vacations, under special certificates issued pursuant to regulations of the Secretary, at a wage rate not less than 85 per centum of the minimum wage applicable under section 6, except that the proportion of student hours of employment to total hours of employment of all employees in any establishment may not exceed (1) such proportion for the corresponding month of the twelve-month period preceding May 1, 1961, (2) in the case of a retail or service establishment whose employees (other than employees engaged in commerce or in the production of goods for commerce) are covered by this Act for the first time on or after the effective date of the Fair Labor Standards Amendments of 1966, such proportion for the corresponding month of the twelve-month period immediately prior to such date, or (3) in the case of a retail or service establishment coming into existence after May 1, 1961, or a retail or service establishment for which records of student hours worked are not available, a proportion of student hours of employment to total hours of employment of all employees based on the practice during the twelve-month period preceding May 1, 1961, in (A) similar establishments of the same employer in the same general metropolitan area in which the new establishment is located, (B) similar establishments of the same employer in the same or nearby counties if the new establishment is not in a metropolitan area, or (C) other establishments of the same general character operating in the community or the nearest comparable community. Before the Secretary may issue a certificate under this subsection he must find that such employment will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under this subsection.

"(c) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by certificate or order provide for the employment of full-time students, regardless of age but in compliance with applicable child labor laws, on a part-time or a full-time basis in agriculture during school vacations, at a wage rate not less than 85 per centum of the minimum wage applicable under section 6. Before the Secretary may issue a certificate or order under this subsection he must find that such employment will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under this subsection.

"(d) The Secretary shall by regulation or by order provide that retail or service establishments may employ management trainees, under special certificates issued pursuant to regulations of the Secretary, without paying such trainees the overtime compensation provided for by section 7 for a period which shall not exceed eighteen months, if such trainees are being trained for employment in a bona fide executive or administrative capacity as defined by the Secretary under section 13(a) (1). In the case of any retail or service establishment, no such special certificate shall be in effect—

"(1) where there are fifty employees or less in such establishment, with respect to more than one management trainee, or

"(2) where there are more than fifty employees in such establishment, with respect to more than a number of such trainees which is equal to 3 per centum of the number of employees in such establishment in excess of fifty (rounded to the next lowest whole number), plus one, or

"(3) where such management trainees re-

ceive compensation for hours worked over forty in any workweek at a rate less than one and one-half times the minimum wage rate applicable to such employees under section 6, or

"(4) where such management trainees are employed for more than forty-eight hours in any workweek.

"(e) Nothing in this Act shall require any employer to pay in excess of 75 per centum of the applicable minimum wage prescribed by section 6 to any employee, under the age of twenty-one years, during the first six weeks of full-time employment of such employee's employment career."

(b) The center heading for such section 14 is amended to read as follows:

"Learners, apprentices, and handicapped workers; students; and management trainees".

Mr. DENT. Mr. Chairman, I ask unanimous consent that the title be considered as read and open for amendment at all points.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DENT. Mr. Chairman, may I inquire as to whether there are any amendments to title V?

The CHAIRMAN. Are there any amendments to title V?

AMENDMENT OFFERED BY MR. OTTINGER

Mr. OTTINGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OTTINGER: Page 54, line 24, strike out "85 per centum" and insert in lieu thereof "75 per centum", and in line 11 on page 56 strike out "85 per centum" and insert in lieu thereof "75 per centum".

(Mr. OTTINGER asked and was given permission to revise and extend his remarks.)

Mr. OTTINGER. Mr. Chairman, this amendment is designed to encourage the hiring of young people during the summer and vacation periods, or on a part-time basis during the year, by requiring firms hiring them to pay 75 percent of the minimum wage rather than the 85 percent provided in H.R. 13712.

It is vital that these young people be assisted in finding gainful employment, not only because many of them desperately need such employment to help them continue their educations or to contribute to their family income, but also to keep them constructively occupied during vacation periods when so many youngsters turn to vandalism and delinquency out of sheer boredom. The Federal Government in recent years has increased its activities in this area, taking positive steps to encourage the hiring of young people during the summer, but we cannot simply pay lip service to the idea of finding jobs for our youth. We must back up our words with action.

One way to give positive encouragement to businesses is to ease the minimum wage requirement. I have spoken with many business leaders who indicated they would like to hire more young people, but they cannot justify it if they have to pay 85 percent of the minimum wage. While they would prefer a much lower rate, almost unanimously these businessmen agreed that a 75-percent figure would be much more acceptable.

The decrease I propose of just 10 percent is modest. Unfortunately, we have no statistics in this area, to show how many additional youths would be employed if the minimum wage applied to them were lowered. I think that the Department of Labor should perform a survey to show the impact of the minimum wage on the summer employment of youth so that in future years we can make appropriate adjustments with greater knowledge.

The many youngsters with whom I have discussed this matter indicated they were less concerned with the wage itself than with being able to find a job to keep busy during summers and other vacation periods.

We are going to have a serious problem on our hands if we do not face up to this problem.

Last July, 18.6 million young people between the ages of 14 and 24 entered the labor force, an increase of 4.3 million over April of that year. The unemployment rate for these youngsters was 10 percent. That means 430,000 young people looked for jobs and could not find them.

More important, the unemployment rate for the 14 to 19 age bracket is much higher. These are the young people about whom we must be particularly concerned.

I spoke with officials of the Department of Labor this morning, to find out what they estimate the situation will be in July of this year. The figures are disturbing, to say the least.

They estimate that 19.4 million young people between the ages of 14 and 24 will be looking for jobs in just about a month from now, 4.2 million more than are in the labor force from this age bracket now; 3.2 million of these will be students looking only for summer jobs, and nearly 90 percent of them are between the ages of 14 and 19.

The Department of Labor estimates that 13.4 percent of these youngsters will be unable to find jobs. This means 450,000 young people this summer between the ages of 14 and 19 will be on the streets, available for work, but who will not be employed.

The amendment I have offered will enable business firms, and especially the smaller ones, to hire these youngsters. This is vital to these young people. It is important to the business firms themselves. And it is vital to our efforts to combat crime and juvenile delinquency.

We recently adopted an amendment offered by our distinguished colleague from Oregon to provide this kind of help for young people employed in the strawberry patches of Oregon. I believe our small businesses deserve the same type of help.

I urge my colleagues to support this amendment.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment.

In the interest of time, since we face the probability of at least four rollcall votes, I would say that the subcommittee and the committee have considered this question of youth employment. We

have come up with the particular answer contained in this bill. To this date I have received absolutely no correspondence from any person or group of persons in the United States against the provision.

Mr. BELL. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from California.

Mr. BELL. I support the chairman of the subcommittee in his position.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. OTTINGER].

The amendment was rejected.

AMENDMENT OFFERED BY MR. VIVIAN

Mr. VIVIAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VIVIAN: On page 57, strike out lines 20 through 24, inclusive, and insert in lieu thereof the following:

"(e) Nothing in this Act shall require any employer to pay in excess of 75 per centum of the applicable minimum wage prescribed by section 6 to any employee, under the age of twenty-one years, but over the age of fifteen years, during the first six weeks of full-time employment of such employee's employment career, or to pay in excess of 85 per centum of such minimum wage to any employee, under the age of twenty-one years, during the next twelve weeks of full-time employment in his employment career. The number of employees of any employer paid the special minimum wage rate provided in this subsection may not exceed the greater of—

"(1) 2, or

"(2) 10 per centum of the number of his employees (rounded to the next highest whole number).

For the purposes of this subsection the term 'employee' does not include an individual who is not paid on the basis of an hourly wage rate."

(Mr. VIVIAN asked and was given permission to revise and extend his remarks.)

Mr. VIVIAN. Mr. Chairman, I intend to support H.R. 13712. However, Mr. Chairman, I propose an amendment which will provide added stimulus for employers to hire teenagers, to reduce the appalling unemployment rate of teenagers.

Now section 501(e) of the bill as reported, provides that persons under the age of 21 can be paid for a period not exceeding 6 weeks, at a rate not less than 75 percent of the applicable "adult" minimum wage rate for other hourly employees. My amendment, would establish a subsequent additional 12-week period at an hourly rate of 85 percent—not 75 percent—of the prevailing hourly rate; and in addition, it will restrict use of the special minimum rate, and will exempt workers being compensated by a piece rate.

Some months ago, during the period the subcommittee was deliberating on this bill now before us, I—among others—asked the chairman of the subcommittee, the distinguished gentleman from Pennsylvania, to include a differential rate for teenagers. A differential rate is needed, we concluded, to motivate

employers to hire and train young men and women coming into the labor market on a fulltime basis for the first time.

At that time, I submitted a statement to the Committee describing and supporting the proposal.

Subsequently, during mark-up of the bill, the subcommittee did include the version of this proposal printed in section 501(e), on page 57.

I thank, and commend, the chairman and Members of the subcommittee for so doing. However, Mr. Chairman, I am convinced that the 6-week period chosen will not be long enough, in many situations, to act as a sufficient stimulus to employers, particularly in those occupations requiring thoroughly trained employees.

The 12 week additional period I propose I believe will be most helpful.

As you can calculate, the wage reduction, for 6 weeks, proposed in the committee bill, gives the employer a reduction in cost of \$100, to employ the youth for 6 weeks. My amendment adds an incentive of an additional \$120, provided the employer keeps the youth on the job for an additional 3 months.

As many Members are aware, the present teenage unemployment rate is the highest of any segment of the labor force. It is now about 12 percent—about four times as high as for all adults; it is over six times higher than for married men. The unemployment rate for nonwhite teenagers is currently a staggering 24 percent.

For a variety of reasons having to do with the chronology of the postwar "baby boom," the 1965 Manpower Report of the President calls attention to an expected net increase of more than half a million 18- and 19-year-olds this year—twice the increase in 1964, and a number larger than the entire growth of this age group in the civilian labor force between 1950 and 1963. The report states that a substantial number of these will enter the labor force on a full-time permanent basis, and that the severity of their unemployment problem and the seriousness of teenage unemployment may increase.

The unemployment of teenagers is both short term and long term. Short-term unemployment may occur several times during the year. The President's 1965 Manpower Report goes on to say:

Never before in our history has so large a proportion of teenagers started their work lives with the disadvantage of unemployment—in many cases frequent or prolonged periods of joblessness. For these, the already difficult problems of beginning a successful work career are increased many fold. The experience, learning, and seniority that generally go only with stable employment are postponed, frequently into the adult years when the responsibilities of marriage and family add to the burdens of unemployment.

Teenagers are employed in a great variety of activities—clerical work in many different industries, ground and building maintenance, household work and other service activities, laborers, operatives in manufacturing, numerous service trades, and retailing. On account of their youth and inexperience,

teenage workers are usually employed in unskilled and semiskilled occupations and only infinitesimally in skilled categories, although not all of the jobs are "dead end" and some offer opportunities for promotions into skilled work.

The various efforts to improve the employability of teenagers such as reducing the school dropout rate, vocational training programs, training programs under the Manpower Development and Training Act, the Job Corps and related activities, are worthy efforts to prepare teenagers to find and hold jobs and to compete in today's job market. However, all labor employed is a cost to the employer; and it does not make the accomplishment of employment easier, if the cost of less effective and inexperienced labor is too high.

Furthermore the high unemployment rate for teenagers probably will not be reduced, but probably will be further increased, when the higher statutory minimum wage—which I support—goes into effect. The higher minimum rates will make teenagers more costly to employ, yet such higher rates will not increase the productivity of such teenage workers, or give them work experience.

And a large proportion of teenagers work in low-productivity industries, and jobs, and also have the disadvantage of poor vocational, and even psychological, preparation to adjust quickly to demanding jobs.

The Federal Labor Standards Act already has recognized that employment is stimulated when certain classes of workers are paid less than the statutory minimum wage, as evidenced by existing programs utilizing learner certificates and certificates for the handicapped. Of course, the procedure of certification would not be practical or workable for the millions of teenagers endeavoring to break into the labor market. What they need is a temporary rate, less than the statutory minimum for adults—a rate which takes into account their inexperience and lack of training and which would encourage employers to employ them.

The extension and limitation to an 18-week period, such as I propose, of course, is open to debate. If no limit is provided, some of these youngsters would be working at the same rate for 3 or 4 years. By comparison, the period for "learners certificates" for those who, under the present act, get certificates which enable them to be employed at less than the minimum rate, is now generally 6 weeks, similar to the 6 weeks listed in section 501(e). But this period is simply too short, in my opinion.

As part of the amendment, to prevent abuse of the special minimum rate, I have included a limitation to not over two young people who may be employed at the special rate in a small establishment, and not over 10 percent of the number of employees in establishments employing over 20 or more hourly workers.

Finally, I have included a provision that the same piece rates should be paid teenagers as are paid other workers doing the same work, to assure that any

teenager who is as productive as other workers will receive the same piece rate wages.

To conclude, Mr. Chairman, this amendment will, in my opinion, effectively act to combat the abnormally high teenage unemployment rate, by providing additional employment opportunities to inexperienced and unskilled young people; I urge the Committee to adopt it.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment, if adopted, would amend a section of the bill that was introduced to the committee by the gentleman from Minnesota [Mr. QUIE]. After much deliberation, we considered the 6 weeks period a sufficient time in which a new worker could become established or find that he could not fit into the type job that he had.

Mr. Chairman, I ask that the committee vote "no" on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. VIVIAN].

The amendment was rejected.

Mr. SISK. Mr. Chairman, I move to strike out the last word.

(Mr. SISK asked and was given permission to revise and extend his remarks.)

Mr. SISK. Mr. Chairman, if I might have the attention of the distinguished gentleman from Pennsylvania [Mr. DENT], the chairman of the subcommittee, I would like to direct the gentleman's attention to the colloquy which we had on the floor yesterday pertaining to the livestock industry and employment on the range in that industry in which the gentleman had expected to obtain information from the Department as to certain rulings regarding what a day of work was.

I wonder if the gentleman would care at this time to make a comment upon that?

I shall be glad to yield to the gentleman from Pennsylvania for that purpose.

Mr. DENT. Mr. Chairman, I wish that the members of the committee would pay attention a little to this particular point in the RECORD, because I want to cover another question that was asked yesterday and would like to clear up at this time all the gray areas that were considered yesterday, in the hope that there will not be any misunderstandings in the RECORD as to what this committee thinks this legislation, if adopted, would do.

Now, Mr. Chairman, I spoke to the Department about the shepherd angle. I was told by the Department, for the RECORD, that in these particular instances they have to consider a day as a day's work. So, therefore, if they are paid on a salary base, which they are in all the instances that have been brought to our attention, they are paid a salary and are paid in kind. This means they are paid all of their expenses, plus a salary. Since their expenses are considered part of their wage base, the Department takes the position that based upon a day's work of so many days in the month period and it would about even that, if that person's income was based on an income over and above the so-called bare minimum, it

would be considered by the Department to be in compliance with the law.

Mr. Chairman, insofar as the records are concerned, the Department takes a 5 percent sampling. If in this sampling, they find that it is in accordance with the provisions of the law as they see them, the records are not demanded monthly from the farmer or the shepherd. That, I believe, clears up that question.

Mr. SISK. I thank the gentleman from Pennsylvania for his comments.

Does the gentleman desire me to yield further to him?

Mr. DENT. Surely.

Mr. SISK. I shall be glad to yield further to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, at this time, I would like to attempt to clear up the information requested by some on the matter of laundry and dry cleaning and clean linen truckdrivers insofar as overtime is concerned.

Mr. Chairman, the Department takes the position that they are to be considered the same as milk drivers are considered under that section of the act.

On page 33, in the regulations, part 541 dealing with drivers who are in a sense outdoor salesmen because they devote their time not alone to the delivery of a product but to replenishing stocks, to collecting bills, and to soliciting new customers, this, then the Department has said they would be given the same consideration and the same determination that is given to the milk truck drivers.

Mr. Chairman, I make as a part of the RECORD and as a part of my remarks at this time the entire body of the regulations that are contained therein.

The regulations referred to follow:

EMPLOYEE EMPLOYED IN THE CAPACITY OF
OUTSIDE SALESMAN

Section 541.500. Definition of "outside salesman"

Section 541.5 defines the term "outside salesman" as follows:

The term "employee employed * * * in the capacity of outside salesman" in section 13(a) (1) of the act shall mean any employee:

(a) Who is employed for the purpose of and who is customarily and regularly engaged away from his employer's place or places of business in:

(1) Making sales within the meaning of section 3(k) of the act; or

(2) Obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and

(b) Whose hours of work of a nature other than that described in paragraph (a) (1) or (a) (2) of this section do not exceed 20 percent of the hours worked in the workweek by nonexempt employees of the employer: *Provided*, That work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including incidental deliveries and collections, shall not be regarded as nonexempt work.

Section 541.501 Making sales or obtaining orders

(a) Section 541.5 requires that the employee be engaged in (1) making sales within the meaning of section 3(k) of the act or (2) obtaining orders or contracts for services or for the use of facilities.

(b) Generally speaking, the Divisions have interpreted section 3(k) of the act to include the transfer of title to tangible property, and in certain cases, of tangible and valuable

evidences of intangible property. Thus sales of automobiles, coffee, shoes, cigars, stocks, bonds, and insurance are construed as sales within the meaning of section 3(k).

(c) It will be noted that the exempt work includes not only the sales of commodities, but also "obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or consumer". "Obtaining orders or contracts * * * for the use of facilities" includes the selling of time on the radio, the solicitation of advertising for newspapers and other periodicals and the solicitation of freight for railroads and other transportation agencies.

(d) The word "services" extends the exemption as outside salesmen to employees who sell or take orders for a service, which is performed for the customer by someone other than the person taking the order. For example, it includes the salesman of a type-writer repair service who does not himself do the repairing. It also includes otherwise exempt outside salesmen who obtain orders for the laundering of the customer's own linens as well as those who obtain orders for the rental of the laundry's linens.

(e) The inclusion of the word "services" is not intended to exempt persons who, in a very loose sense, are sometimes described as selling "services". For example, it does not include persons such as service men even though they may sell the service which they themselves perform. Selling the service in such cases would be incidental to the servicing rather than the reverse. Nor does it include outside buyers, who in a very loose sense are sometimes described as selling their employer's "service" to the person from whom they obtain their goods. It is obvious that the relationship here is the reverse of that of salesman-customer.

Section 541.502 Away from his employer's place of business

(a) Section 541.5 requires that an outside salesman be customarily and regularly engaged "away from his employer's place or places of business". This requirement is based on the obvious connotation of the word "outside" in the term "outside salesman". It would obviously lie beyond the scope of the Administrator's authority that "outside salesman" should be construed to include inside salesmen. Inside sales and other inside work (except such as is directly in conjunction with and incidental to outside sales and solicitations, as explained in paragraph (b) of this section) is nonexempt.

(b) Characteristically the outside salesman is one who makes his sales at his customer's place of business. This is the reverse of sales made by mail or telephone (except where the telephone is used merely as an adjunct to personal calls). Thus any fixed site whether home or office, used by a salesman as a headquarters or for telephonic solicitation of sales must be construed as one of his employer's places of business, even though the employer is not in any formal sense the owner or tenant of the property. It should not be inferred from the foregoing that an outside salesman loses his exemption by displaying his samples in hotel sample rooms as he travels from city to city; these sample rooms should not be considered as his employer's places of business.

[28 F.R. 9505, Aug. 30, 1963, as amended at 28 F.R. 14424, Dec. 28, 1963]

Section 541.503 Incidental to and in conjunction with sales work

Work performed "incidental to and in conjunction with the employee's own outside sales or solicitations" includes not only incidental deliveries and collections which are specifically mentioned in § 541.5(b), but also any other work performed by the employee in furthering his own sales efforts. Work performed incidental to and in conjunction with the employee's own outside sales or

solicitations would include, among other things, the writing of his sales reports, the revision of his own catalogue, the planning of his itinerary and attendance at sales conferences.

Section 541.504 Promotion work

(a) Promotion work is one type of activity often performed by persons who make sales, which may or may not be exempt work, depending upon the circumstances under which it is performed. Promotion men are not exempt as "outside salesmen."¹³ However, any promotional work which is actually performed incidental to and in conjunction with an employee's own outside sales or solicitations is clearly exempt work. On the other hand, promotional work which is incidental to sales made, or to be made, by someone else cannot be considered as exempt work. Many persons are engaged in certain combinations of sales and promotional work or in certain types of promotional work having some of the characteristics of sales work while lacking others. The types of work involved include activities in borderline areas in which it is difficult to determine whether the work is sales or promotional. Where the work is promotional in nature it is sometimes difficult to determine whether it is incidental to the employee's own sales work.

(b)(1) Typically, the problems presented involve distribution through jobbers (who employ their own salesmen) or through central warehouses of chainstore organizations or cooperative retail buying associations. A manufacturer's representative in such cases visits the retailer, either alone or accompanied by the jobber's salesman. In some instances the manufacturer's representative may sell directly to the retailer; in others, he may urge the retailer to buy from the jobber.

(2) This manufacturer's representative may perform various types of promotional activities such as putting up displays and posters, removing damaged or spoiled stock from the merchant's shelves or rearranging the merchandise. Such persons can be considered salesmen only if they are actually employed for the purpose of and are engaged in making sales or obtaining orders or contracts. To the extent that they are engaged in promotional activities designed to stimulate sales which will be made by someone else the work must be considered nonexempt. With such variations in the methods of selling and promoting sales each case must be decided upon its facts. In borderline cases the test is whether the person is actually engaged in activities directed toward the consummation of his own sales, at least to the extent of obtaining a commitment to buy from the person to whom he is selling. If his efforts are directed toward stimulating the sales of his company generally rather than the consummation of his own specific sales his activities are not exempt. Incidental promotional activities may be tested by whether they are "performed incidental to and in conjunction with the employee's own outside sales or solicitations" or whether they are incidental to sales which will be made by someone else.

(c)(1) A few illustrations of typical situations will be of assistance in determining whether a particular type of work is exempt or nonexempt under § 541.5. One situation involves a manufacturer's representative who visits the retailer for the purpose of obtaining orders for his employer's product, but transmits any orders he obtains to the local jobber to be filled. In such a case the employee is performing sales work regardless

of the fact that the order is filled by the jobber rather than directly by his own employer. The sale in this instance has been "consummated" in the sense that the salesman has obtained a commitment from the customer.

(2) Another typical situation involves facts similar to those described in the preceding illustration with the difference that the jobber's salesman accompanies the representative of the company whose product is being sold. The order in this instance is taken by the jobber's salesman after the manufacturer's representative has done the preliminary work which may include arranging the stock, putting up a display or poster, and talking to the retailer for the purpose of getting him to place the order for the product with the jobber's salesman. In this instance the sale is consummated by the jobber's salesman. The work performed by the manufacturer's representative is not incidental to sales made by himself and is not exempt work. Moreover, even if in a particular instance the sale is consummated by the manufacturer's representative it is necessary to examine the nature of the work performed by the representative to determine whether his promotional activities are directed toward paving the way for his own present and future sales, or whether they are intended to stimulate the present and future sales of the jobber's salesman. If his work is related to his own sales it would be considered exempt work, while if it is directed toward stimulating sales by the jobber's representative it must be considered nonexempt work.

(3) Another type of situation involves representatives employed by utility companies engaged in furnishing gas or electricity to consumers. In a sense these representatives are employed for the purpose of "selling" the consumer an increased volume of the product of the utility. This "selling" is accomplished indirectly by persuading the consumer to purchase appliances which will result in a greater use of gas or electricity. Different methods are used by various companies. In some instances the utility representative after persuading the consumer to install a particular appliance may actually take the order for the appliance which is delivered from stock by his employer, or he may forward the order to an appliance dealer who then delivers it. In such cases the sales activity would be exempt, since it is directed at the consummation of a specific sale by the utility representative, the employer actually making the delivery in the one case, while in the other the sale is consummated in the sense that the representative obtains an order or commitment from the customer. In another type of situation the utility representative persuades the consumer to buy the appliance and he may even accompany the consumer to an appliance store where the retailer shows the appliance and takes the order. In such instances the utility representative is not an outside salesman since he does not consummate the sale or direct his efforts toward making the sale himself. Similarly, the utility representative is not exempt as an outside salesman if he merely persuades the consumer to purchase an appliance and the consumer then goes to an appliance dealer and places his order.

(4) Still another type of situation involves the company representative who visits chain stores, arranges the merchandise on shelves, replenishes stock by replacing old with new merchandise, consults with the manager as to the requirements of the store, fills out a requisition for the quantity wanted and leaves it with the store manager to be transmitted to the central warehouse of the chain-store company which later ships the quantity requested. The arrangement of merchandise on the shelves or the replenishing of stock is not exempt work unless it is incidental to and in conjunction with the employee's own

¹³ This discussion relates solely to the exemption under § 541.5, dealing with outside salesmen. Promotion men who receive the required salary and otherwise qualify may be exempt as administrative employees.

outside sales. Since the manufacturer's representative in this instance does not consummate the sale nor direct his efforts toward the consummation of a sale (the store manager often has no authority to buy) this work must be counted as nonexempt.

[28 F.R. 9505, Aug. 30, 1963, as amended at 28 F.R. 14424, Dec. 28, 1963]

Mr. Chairman, before the Committee rises, I would like to say that I will ask for a record vote on the Anderson amendment to section 102. I would briefly like to explain why.

Mr. Chairman, last night while driving home I had my car radio tuned to the news. I found myself hearing the commentator discuss the day's activities on this bill and concluding with something like this: "The House rejected an amendment to remove agricultural coverage from the bill, but accepted an amendment preventing small businesses from being covered."

Mr. Chairman, the first part of that statement is quite true; but I found the last part somewhat incredible. Since when is a small business one that does an annual gross volume of sales of, between \$250,000 and \$500,000. Even an enterprise doing a business at the lowest figure—\$250,000—has gross sales of \$1,000 per working day. Is this "small business"? Mr. Chairman, I believe many of us are confusing the corner grocery store with something far beyond that.

The amendment of the gentleman from Illinois affects 1.6 million workers. The success of his amendment means that 1.6 million working Americans will be denied minimum wage protection. Are 1.6 million American workers said to be sacrificed in the name of small business or worse, political expediency?

Mr. Chairman, I would also like this Committee to know the circumstances under which the Anderson amendment was accepted. I think it entirely proper to say that no one on this side had a copy of the amendment, and absolutely correct to note that our efforts to obtain one were futile. In fact, as the amendment was being debated, majority counsel had to hand copy it from the clerk's copy. I think it also significant that the principal supporters of the amendment did not know the exact dollar figures contained in the amendment, and even more significant that the sponsor of the amendment—I am told—erred in changing his original copy to satisfy his subsequent intentions. Yet, this amendment was accepted in a maze of confusion. And this amendment therefore stands unless the majority of us can correct the tragic mistake of yesterday by voting against it in the House.

Mr. Chairman, regardless of the fate of my request for a record vote, I would like to make one point abundantly clear. That is, when all of you who support this amendment do your reelection campaigning this summer and fall, please do not tell your constituents that you staved off an effort to hurt the small businessman. Do not tell them anything about that noble accomplishment of yours. Just remind yourself that you allowed 1.6 million employees of prosperous enterprises to continue earning wages of 80 cents, 90 cents, and \$1 an hour. Sober

your progressive selves on that reality, and your consciences should prevent you from even wanting to think about your vote for small business.

ANALYSIS OF ANDERSON AMENDMENT

The Anderson amendment, approved by the House of Representatives in Committee of the Whole by a teller vote of 120 to 109, provides:

First. Additional coverage in the retail and service field would be limited to enterprises having one or more establishments annual gross sales of not less than \$500,000, purchases across State lines of \$250,000. This contrasts with the bill approved by the Committee on Education and Labor with only two dissents, which extends coverage in the retail and service field to enterprises having annual gross sales of \$500,000 for a 2-year period, February 1, 1967–January 31, 1969, but reduces the volume of business test to \$250,000 after January 31, 1969.

Second. With the exception of laundries, construction firms, and hospitals, nursing homes and educational institutions, enterprise coverage in other fields would be limited to those having annual gross sales of not less than \$1,000,000. This contrasts with the committee bill which extends coverage to these enterprises on the same basis as to retail and service enterprises; namely, to those having annual gross sales of not less than \$500,000 during the period from February 1, 1967, through January 31, 1969, and annual gross sales of not less than \$250,000 thereafter.

The effect of the amendment would be to deprive at least 1,630,000 workers of the benefits of the legislation as follows:

Retail trade, 345,000; restaurants, 125,000; hotels, 85,000—since it is not clear what the effect of applying an inflow test to hotels may be, the number affected may be much larger; transit 65,000; non-profit, 400,000; professional organizations, 160,000; educational institutions, 240,000; and all others, 210,000.

Mr. Chairman, there has been some questions raised by Members concerning laundry, dry cleaning, and clean linen truckdrivers.

I am asked whether or not these employees are excepted from the overtime provisions. To answer this question I checked with the Labor Department and they assured me that they are not covered by the overtime provisions.

They are considered and classified as outside salesmen.

In support of this position I want to read the regulations covering this phase of overtime coverage:

Section 541.505 Driver salesmen

(a) A large group of employees known generally as "route salemen", "distributor salesmen", or "driver salesmen" are commonly employed by distributors of carbonated beverages and beer, cigars, and numerous dairy and other food products. Typically, the driver salesman carries an assortment of the articles he sells and calls on the same customers at frequent and regular intervals. He confers with the customers, replenishes the customer's stock of goods and if he is introducing new varieties or new lines, endeavors to persuade the customer to buy the new products. He removes the empty bottles, cases, and other containers if these are

to be returned to his employer and delivers the articles sold to the customer. The exemption is not defeated by the fact that the employee combines deliveries, collections, and other incidental work with his sales activities. It is clear that such an employee is employed for the purpose of making sales.

The third matter is the matter of the sharecropper. It is a very simple regulation and one that cannot be misunderstood. So long as there is a contract between the owner and the sharecropper on a percentage of the proceeds or of the produce of that farm, then no matter what happens in the way of an act of God or any other kind of accident or catastrophe that was mentioned here yesterday afternoon, it is a bona fide contract unless the owner of the property orders or tells the so-called contract partner when he is to come to work, what kind of clothes he is to wear and when he is to quit work or other matters that are detailed in the contract.

If it is a contract in which they decide which fields to plow and which fields to fertilize and all the other things that go into farming, it is a bona fide contract and the sharecropper is not included in the 500-man-day provision.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. GOODELL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I want to clarify the legislative history. I think we are in complete agreement with reference to the exemption provided for salesmen, mechanics, and partsmen in the automobile section. We worked very hard on this. In the committee report we have tried to make it absolutely clear.

I would just like to have in the RECORD a statement by the gentlemen from Pennsylvania that the exemption that we have put in here for salesmen, mechanics, and partsmen employed by an auto, truck and farm dealerships is self-operating and we intend that their salesmen, mechanics, and flight personnel in aircraft sales establishments be exempt under the act.

We recognize we have special problems so far as their pay scale is concerned.

We have put in here that it makes no difference if there is a paint shop or a body shop that is down the road or across the street. It is part of the dealership and it would be included in the exemption that we have provided here.

I think the gentleman from Pennsylvania will agree with me?

Mr. DENT. We cleared that up in the record during the debate. Further, in the report on page 42, it clearly states that even if they work in physically separate buildings or areas so long as they are employed in a department functionally operated as part of the dealership, it is the intention of this exemption to exclude them from the coverage of section 7.

Mr. GOODELL. Mr. Chairman, the other point that we do not intend to quibble about is whether dealership is a retail or service establishment. We believe if they are a dealership in these autos, trucks, and farm implements that this is a self-operating exemption and that these

mechanics and salesmen and partsmen will be exempt.

Mr. DENT. I do not know what you mean by the word "self-operating." If you mean to ask—are they exempt under the particular terms that you have detailed—my answer is yes. I do not want to agree to the word "self-operating" because I do not know how that fits into the picture.

Mr. GOODELL. Then to use a different phase—we are not going to quibble about whether these are retail or service establishments. If they are a dealership in these autos and trucks or parts or farm implements, we feel that these particular employees are exempt.

Mr. DENT. That ruling has already been made. So long as they sell to the ultimate consumer, they are considered a dealership.

Mr. GOODELL. I appreciate the gentleman's statement. There has been some confusion and concern about this. I think the gentleman from Pennsylvania has worked very hard to make sure that they did have an exemption, as we have described it here.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from Iowa.

Mr. GROSS. It is reported that 80 percent of the poverty funds in some instances is being spent on salaries and other costs of personnel, particularly salaries. Can I be sure and can Members of the House be sure that these poverty workers are getting the minimum wage?

Mr. GOODELL. I hope you will not get me started on poverty or we will be here until next week. I think you can be assured that most of the poverty workers who are employed have to have a minimum wage under the poverty law—yes.

Mr. WHITENER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I take this time in order to make an inquiry of the distinguished gentleman from Pennsylvania [Mr. DENT].

In title V of the bill in the provision with reference to full-time basis employment of students, I note in line 22, it is restricted by the words "during school vacations."

I am sure the gentleman knows that many of our students do find employment during the Christmas season, particularly in the retail or service establishments. Is it correct to say that this language would not preclude full-time employment during a Christmas vacation period at 85 percent of the applicable minimum wage for that particular employer?

Mr. DENT. Yes. The words in the bill and in the report clearly state that it is during a vacation, and the 20-hour-week limitation is only when they are attending school. That is to allow them to pick up a couple of hours of work like some of our elevator operators around here who are working their way through school. But a vacation is a vacation, whether it is in July or in December.

Mr. WHITENER. So it is the intent of the committee and the intent of Congress that this provision will not be limited

to what we know as the summer-vacation period. It will include school students working during Christmas vacations.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. If there are no further amendments to title V, the Clerk will read title VI.

The Clerk read as follows:

TITLE VI—STATUTE OF LIMITATIONS; EFFECTIVE DATE; AND STUDY

Statute of limitations

SEC. 601. (a) Section 16(c) of such Act is amended by striking out "two-year statute" and by inserting in lieu thereof "statutes".

(b) Section 6(a) of the Portal-to-Portal Act of 1947 (Public Law 49, Eightieth Congress) is amended by inserting before the semicolon at the end thereof the following: "except that a cause of action arising out of a willful violation may be commenced within three years after the cause of action accrued".

Effective date

SEC. 602. Except as otherwise provided in this Act, the amendments made by this Act shall take effect on February 1, 1967. On and after the date of the enactment of this Act the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

Study of excessive overtime

SEC. 603. The Secretary of Labor is hereby instructed to commence immediately a complete study of present practices dealing with overtime payments for work in excess of forty hours per week and the extent to which such overtime work impedes the creation of new job opportunities in American industry. The Secretary is further instructed to report to the Congress by July 1, 1967, the findings of such survey with appropriate recommendations.

Mr. DENT (interrupting the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open for amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

The Chair hears none, and it is so ordered.

There was no objection.

The CHAIRMAN. Are there any amendments to title VI?

Mr. DENT. Mr. Chairman, I move to strike the last word.

I take this time to acquaint the House with what probably will be the program after the Committee rises.

First, I will ask for a separate vote on the Anderson amendment. We find that the Anderson amendment went much further than at least this particular Member of the House considered it would go, for it would strike from the umbrella of protection of the minimum wage law 1,600,000 employees. It would apply to 250,000 the inflow test for the service industries, including hotels, restaurants, food shops, and so forth, and thus could defeat any meaningful coverage in this area, even those that have been covered over the years.

In our opinion, service industries do not generally sell the products which they purchase, and the inflow test is not a true test of that particular type of enterprise. I speak of the total volume of business.

The committee introduced an amendment which was carefully considered but rejected by the committee after extensive public hearings. It represents ill-advised and ill-conceived action without regards to its full implications.

In 1960 the House adopted an amendment under somewhat similar conditions, and we found ourselves in a position where we had uncovered 14 million workers in America who had previously been covered, and we had to go the next day and, by unanimous consent and other parliamentary maneuvers, move into an area that would bring us back into the realm of sanity.

I believe this is the point now. This particular amendment serves to show what happens when a committee does not have the time to study all of the provisions of lengthy amendments handed over the desk without copies to the members.

I intend to ask for a separate vote on the amendment known as the Ayres-Morris amendment on the escalation of the wage increase.

I do so because in my humble opinion this would create an area of injustice not intended even by the sponsors, in that they would get a flow together of the wage of the lower paid workers, whom we are fighting so hard to put under the umbrella at an earlier date than they would be under the amendment which we have in the bill itself.

We say there is a differential in the economic levels of the new workers we are putting in and the old workers who have been covered since 1938. We say there is a difference in the economic situation of those who were covered in 1938 and the vast proportion of American industry that has accepted and that has considered this type of wage legislation as a part of everyday work life.

We say if we take the Ayres substitute to the Morris amendment, which was an amendment of expediency, even the supporters of that Morris amendment could not stomach the 36-month situation, because then they would have the little boys working around the restaurants getting more under the act at an earlier date than those working at General Motors.

I mean it when I say this is a "General Motors" amendment. It is against the cornerstone of this bill, if we are going to maintain an understanding of the American economy and the categories of our economy, in the production industries, which are notably higher paid.

The service industry is broken into two: the personal service, and the service that goes to the general economy. In the agricultural sector, under this amendment we will soon have the poor farmer, whom we have been trying to help, receiving a higher minimum wage, if we continue that philosophy, than the workers in General Motors.

So, Mr. Chairman and Members of the Committee, I say the members of this committee have tried at every session to meet every logical complaint of every Member of this body and their constituents who were presented to the committee. We have tried to write a bill that probably does not suit all the Members.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. DENT was allowed to proceed for 2 additional minutes.)

Mr. DENT. Mr. Chairman, this bill does not meet the approval of all of the Members of New York, or of Hawaii, or of Mississippi, or of Kentucky. But how can any legislation dealing in the economics of money—particularly money that is to be paid for labor—meet the approval of all?

The Members have heard me say that there will always be controversy over wages. There has been since the first man invented the wheel and found he could pay somebody to push it. There has been a fight ever since then as to how much the man gets who owns the wheel and how much the man gets who pushes the wheel.

So I ask all of the Members from New York and from Pennsylvania, and from Ohio and from Kentucky, to remember that while this does not do everything we would like to have it do in each State, this is not a State legislature. This is the Congress of the United States.

I do not believe we could do much better than we have done in trying to meet the problems of the 50 States in one piece of legislation.

I beg the Members to give consideration to the efforts of the committee, and to the hours and days spent in trying to bring a bill to the Members of which they can proudly say that we have not done the best for everyone; but we have not given anybody the worst of the deal.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

(On request of Mr. JONES of Missouri, and by unanimous consent, Mr. DENT was allowed to proceed for 1 additional minute.)

Mr. JONES of Missouri. Mr. Chairman, I want to ask the gentleman a question, since he keeps referring to General Motors. I cannot envision any place where General Motors would pay less than \$1.25 an hour. Can the gentleman enlighten me on what somebody would be doing for General Motors who would be receiving less than \$1.25 an hour?

I would like to have it for my information.

Mr. DENT. General Motors is a vast and complex corporation. In fact, someone has said that we should ask what is good for the United States by asking what is good for General Motors.

Mr. JONES of Missouri. Where are people working, who work for General Motors, who receive less than \$1.25? That is all I am asking.

Mr. DENT. If they have installations in certain States of this Nation, in certain, they are paying the prevailing wage rates in that section.

Mr. JONES of Missouri. Where?

Mr. DENT. I will say if they have certain installations in some parts of Pennsylvania, they will pay less than \$1.60.

Mr. JONES of Missouri. What type of work? Can the gentleman tell me that?

Mr. DENT. Yes, I can tell the gentleman. They have sweepers.

They have handy men around their places. They have women who come in at night to clean up the offices.

Mr. JONES of Missouri. Are not those people members of a union?

Mr. DENT. I do not know. I have not asked them.

Mr. JONES of Missouri. If they are members of a union, they would be getting more, would they not?

Mr. DENT. I do not know that.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was not on the floor yesterday to hear the gentleman from Pennsylvania say that the amendment which I offered, and which was adopted in the Committee of the Whole yesterday, would strike from coverage under this bill 1.6 million workers. I deny completely the charge that the gentleman has made.

The legislative history which was compiled on this amendment in the Committee of the Whole yesterday makes it abundantly clear that the main thrust and purpose of this amendment is to help the small businessman of America—to say that, instead of resorting in 1969 to a second stage of decreasing the volume test, the enterprise test, to \$250,000, we will hold it at \$500,000.

The opponents of my amendment refer to subparagraph (3) of the amendment, where the \$1 million was not changed as the basis for this ill-founded charge that the effect of the amendment is to strip coverage from a great number of workers.

Let me remind the gentleman from Pennsylvania of something of which I am sure he is well aware, that under the Fair Labor Standards Act there are two tests for coverage. There is the test for those employees who are individually employed in interstate commerce or in the production of goods for commerce. There is also the enterprise test. I feel confident that under subparagraph (3) of my amendment the employees the gentleman talked about, apparently to the press or elsewhere, those working in small mines, mills, and factories, would be covered—95 percent of them—under the clause of this act which covers employees who are individually engaged in commerce or the production of goods for commerce.

Let me say this in addition: If there are some additional words of art which are necessary, I am not suggesting that the language is perhaps completely perfect. I believe the chairman of the full committee put it pretty well yesterday when he accepted an amendment to his own committee bill and said that even the Holy Scriptures have had to be revised over the past 2,000 years.

I have been personally assured by the gentleman from Ohio [Mr. AYRES], who will head the Republican conferees, that if there is any confusion in the conference committee at all about what this amendment is designed to do he will

support any language necessary to clear up that confusion. I do not believe there is any.

I believe the opposition to this small business amendment is setting up a strawman, so that they can knock it down.

I noticed the gentleman from Pennsylvania, when he talked against my amendment, did not have much to say about the substance of it. Most of his time was spent talking about stripping people from coverage.

I repeat: This amendment does not take away the present coverage of the act from anyone, and I deny that it takes out an additional 600,000 under the expanded coverage that is proposed under this bill.

We are to celebrate, beginning on Sunday, Small Business Week. The President of the United States the other day presented a plaque to the small businessman of the year. This is an opportunity for you fellows to stand up for the small businessman of America who says, "Do not put me in the same category with the big chains having a \$250,000 volume test. That fellow, with his mass purchasing power, his mass advertising available to him, perhaps ought to be covered."

I say that I know a little bit about small business. I grew up behind the counter of a corner grocery store that would be covered by this amendment—where mom and dad and brothers and sisters and perhaps two or three employees work behind the counter. Believe me, there are not any trips to Florida, as somebody was talking about. There are not any Cadillacs for those people who run these types of businesses in America.

I have before me a little article, written by one of the leading economic experts in the country, Pierre Rinfret. The heading is: "Rinfret Sees Possible Recession in Mid-'67."

Well, if that recession comes and the \$1.60 goes into effect in 1969, if the Morris amendment is adopted, it is the little fellow who is going to feel the impact first.

Let me close by saying that I supported a rule for this bill. I was the only one on my side of the aisle on that committee who did support it.

I am going to vote for this bill. I am not standing here in the well as one who is out to "gut" this legislation, but I believe when the gentleman from Pennsylvania came before our committee and asked for an open rule that is what he wanted. We had a right on the floor of the House to offer amendments.

Are we supposed to sit here and just accept the bill out of the committee as it comes to us without making any effort to improve it? No. I supported the gentleman from Pennsylvania on that child labor amendment even though I grimaced just a little bit when I did it, but I did it because I thought he was right. I hope when the separate vote comes on this amendment that he will support me, because I think I am right and I think it is logical and it is clear and it is plain and we have a perfect

justification for making some distinction and some differentiation as between the big businessmen and the chainstore merchant and the little fellow who is running a corner grocery store or a hardware store or some other little business.

Mr. Chairman, I now yield to the gentleman from New York [Mr. OTTINGER].

Mr. OTTINGER. Mr. Chairman, I would like to congratulate the gentleman from Pennsylvania [Mr. DENT], on the fine job he has done with this bill, but I wish to express myself as favoring the amendment of the gentleman from Illinois [Mr. ANDERSON]. During the debate on H.R. 13712 over the past 3 days, I have made clear my support for this legislation. I believe it is a moderate, reasonable proposal to bring the national minimum wage up to today's living costs. This bill will have my wholehearted support on final passage.

However, as I stated yesterday when I offered an amendment to section 102(c) of H.R. 13712, I do feel that we must take steps to temper the effect of this legislation on the Nation's small businesses and the men and women they employ. For this reason, I am supporting the amendment of the gentleman from Illinois [Mr. ANDERSON] and I hope my colleagues will support it, also.

I realize the amendment goes further than had been intended, by exempting from the enterprise definition under the act wholesale and manufacturing firms grossing less than \$1 million a year, rather exempting only firms grossing under \$500,000 yearly.

However, I don't believe this will make that much of a difference in the amount of workers covered, and I believe it is still consistent with our goal of providing reasonable protections for the smaller firms. A wholesale firm or a manufacturer grossing \$1 million a year or less is not big business. If we bring these firms under the coverage of the minimum wage provisions, many of them will either have to go out of business or lay off some employees. The minimum wage bill is supposed to be an adjunct of our other anti-poverty efforts. We must be sure that the impact of this legislation is consistent with those efforts and will not, in fact, serve to heighten the problem we are attacking on this and other fronts. Increasing the minimum wage for workers defeats our purpose if its effect is to destroy the jobs they now hold.

(Mr. OTTINGER asked and was given permission to revise and extend his remarks.)

Mr. ALBERT. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, the distinguished manager of the bill has advised me that he would ask for a separate vote on the Anderson amendment among others. I appreciate what the distinguished gentleman from Illinois [Mr. ANDERSON], the author of the bill has said. He has made a very impassioned plea for his amendment and has stated in very strong language his understanding of what his amendment means.

Mr. Chairman, as soon as this amendment was passed yesterday we procured

copies of it and asked the Department of Labor to make an analysis. We have the results of that analysis with us now.

The Department of Labor having analyzed this amendment states that the effect of the amendment would be to deprive at least 1.6 million workers of the benefits of the legislation as follows: 345,000 employees in retail trade; 125,000 employees in restaurants; 85,000 employees of hotels and motels, with the notation that this figure may be larger depending on the effects of an inflow test on service industries; 50,000 employees in miscellaneous services; 65,000 employees of transit systems; 400,000 employees of nonprofit organizations; and 480,000 employees of all other categories, with the notation that this includes such categories as professional institutions, wholesale trade, finance, insurance and real estate, business services, manufacturing and transportation, communication, and public utilities.

Now, Mr. Chairman, in view of the determination of the Department of Labor on this matter, it would seem to me that it would be the part of wisdom to turn this amendment down. Do gentlemen here want to be careful in their work or do they want to adopt something simply on the basis of an emotional plea? I have told the Committee what the Department of Labor says about the amendment.

I have a high regard for the very able and articulate and distinguished Member, the gentleman from Illinois, but as between his conclusions as to what this amendment means and the conclusions of the Department of Labor, I personally feel that I would have to go along with the Department of Labor.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. ALBERT. I yield to the gentleman from Pennsylvania.

Mr. DENT. It is very easy for someone just to get up and grab a lot of figures out of the air, but your committee studied them. It has been said that this is the small businessman's amendment. Let me tell you, the bill before you, before it was amended by the gentleman from Illinois, took into consideration the small business people. Let us see what happens in the retail field. The bill we brought to this House exempted 1,252,000 establishments in the United States in the retail business that do \$250,000 a year of business or less. The only thing this amendment does that was put in by the gentleman from Illinois is it extends the same exemption to 74,000 stores in the United States whose income is \$250,000 to \$500,000.

And, Mr. Chairman, I defy anyone to get up and defend as small business a store doing \$10,000 a week.

Mr. ALBERT. Mr. Chairman, I agree with the gentleman from Pennsylvania and I thank the gentleman for his contribution.

Mr. Chairman, may I conclude simply by saying that the committee has done a good job and that this has been a very constructive debate.

I trust that the members will support the committee in the vote on the amendments and on the passage of the bill.

Mr. Chairman, I yield back the balance of my time.

Mr. GOODELL. Mr. Chairman, I move to strike the requisite number of words.

(Mr. GOODELL asked and was given permission to revise and extend his remarks.)

Mr. GOODELL. Mr. Chairman, I shall not use the full time, but it does seem to me that since we have had a full recitation of figures on employment and those that would be left out of this bill through the adoption of the Anderson amendment, I feel that there should be some clarification of the matter.

Mr. Chairman, the Anderson amendment, if adopted, will take no one out from under the present coverage of the minimum wage.

Mr. Chairman, the Anderson amendment, if adopted, will have its impact as of February 1, 1969.

Under the present bill we are moving the volume of business test from \$1 million to \$500,000, as of February 1, 1967, and that \$500,000 volume of business jurisdictional test then continues for 2 years, until February 1, 1969.

Mr. Chairman, the net impact of the Anderson amendment is to say that as of February 1, 1969, we will not take the next step down to \$250,000 volume per year. We remain at the \$500,000—half-million dollar level—as to enterprises that would be covered under the Federal law.

As I said when we considered this yesterday and as we were dealing with it now today, Mr. Chairman, since this is going to take place 3 years from now, the Congress is not going to go out of business. We are going to be here. We can consider the impact of this legislation in the next 3 years. If we then feel that we could move the jurisdiction down, without hurting small business, without putting people out of business, then we can move in that direction.

Finally, Mr. Chairman, the one thing that the Anderson amendment accomplishes, if adopted, which is most important. Under the bill, as written, we will on February 1, 1969, be treating the chainstore establishment exactly the same way as we treat the private independent establishment. They will both be covered, if they do \$250,000 worth of business. That, I believe, is a critical point.

Always, Mr. Chairman, on this committee we have in the past felt that a private, independent store should have a little bit of extra consideration, since it does not have the advantage of chainstore operations.

As of February 1, 1969, we will erase that difference or distinction in treatment.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. GOODELL. I yield to the gentleman from Pennsylvania.

Mr. DENT. I will say to the gentleman from New York that I want to give as much credence to this statement that he has made as I have given to all the others, and the gentleman from New York is making it for the record, that all

of us will be here 3 years from now. I appreciate that very much.

Mr. GOODELL. I will say to the gentleman from Pennsylvania that if I said all of us will be here, I certainly did not intend that all individual Members would be here. But I certainly hope the Congress of the United States will still be meeting in this Chamber. It is a continuing body, and we will be certainly working in the Committee on Education and Labor on this kind of legislation.

I appreciate the gentleman's comment. But if I may conclude with this, I believe we should pass the Anderson amendment. We have 3 years during which to consider whether we ought to move down that step in 1969. In the meanwhile, let us go to the \$500,000 level and let us see how it works out, this entire impact, insofar as inflation and employment is concerned.

Mr. MARTIN of Nebraska. Mr. Chairman, I move to strike the requisite number of words.

(Mr. MARTIN of Nebraska asked and was given permission to revise and extend his remarks.)

Mr. MARTIN of Nebraska. Mr. Chairman, I take this time to inform the Members that I expect to make a recommittal motion at the proper time. The recommittal motion will consist of two amendments to the legislation.

The motion to recommit is to include the amendment which I offered yesterday to strike all of the agricultural sections from the bill—four different sections—all in reference to agriculture. As was brought out in the debate late yesterday afternoon by the very able gentleman from Kentucky, there is a great deal of confusion as to who is covered by this particular agricultural legislation.

The subject was brought up about sharecroppers and whether the owner of a farm would be liable for wages paid to a sharecropper on a percentage of the crop basis. We did not get a satisfactory answer and there is not anything in the bill covering sharecroppers. This is just one illustration of the confusion that exists.

The second part of the recommittal motion will be the amendment offered by the gentleman from New York [Mr. GOODELL] in regard to the food processors which was debated earlier today.

Mr. GOODELL. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Nebraska. I yield to the gentleman.

Mr. GOODELL. I simply want to say, this was the first amendment I offered, which would change the present two 14-week exemptions to two 10-week exemptions with no other change in the hours.

I hope we have the support of the Members on the recommittal motion.

Mr. O'HARA of Illinois. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, this has been a great debate and I think it should close in an atmosphere of sweetness.

Never have I been prouder of the House of Representatives of the Congress of the United States than I have been during this debate. The debate on both sides has been intelligent, it has gone with clearness and exhaustiveness into the

nooks and the corners and it has been carried on with the eloquence of sincerity and conviction in the noblest traditions of fairness of this historic Chamber. So I take only a minute, Mr. Chairman, to express what I think is in the minds of all my colleagues—appreciation of and congratulations to the members of this great committee on both sides of the aisle for an outstanding job they have done and for a brilliant and memorable debate.

Mr. WELTNER. Mr. Chairman, I support the increase in the minimum wage and the extension of coverage.

For over 5 years now the Nation has enjoyed unprecedented prosperity. Corporate profits, executive salaries, and personal savings are at alltime highs. Investors in long-term securities are enjoying record yields. Real estate values continue to climb.

Now, surely, with all this outpouring of staggering wealth, we can give some consideration to the millions of people who do not own stocks and bonds and real estate, but depend upon their daily labor to support themselves and their families. We can do something to assure that working people, along with industrial and commercial interests, share in this prosperity, and improve, in some measure, their personal lot.

The working men and women of this country deserve this protection, Mr. Chairman, and I, for one, am grateful for the opportunity to support them.

Mr. POLANCO-ABREU. Mr. Chairman, I rise to support the amendment in regard to extension of coverage. I will limit my observations to the effect of extended coverage in Puerto Rico.

I know that the drafters of the principal legislation, which we have been considering, had in mind to better the lot of underprivileged people far down on the economic ladder. But in Puerto Rico, the effect threatens not to better them but to worsen them in their economic position.

Nothing could be more evident that an increase in wages, but without a job to provide them, would be the most idle of all legislative gestures. Nothing could be more meaningless. And for these people who have been led to believe that the minimum wage amendments with its extended coverage will reach out and embrace them, nothing could be more deceiving.

As our former Governor, the Honorable Luis Muñoz-Marín has said, the lowest possible wage is no wage at all.

The danger in extending the provisions of such general legislation tailored for the needs of the U.S. industrial economy is apparent. All of the extended coverage of this bill applies to Puerto Rico, but the tailoring was not done to fit the suit to Puerto Rico. And I can tell you that the suit simply will not fit. The pity is that Puerto Rico will have to wear it and it will not look good, either to the Puerto Rican people or to the people of the world.

For the workingman in the additionally covered industries in Puerto Rico, the protection of the minimum wage law is something that he could do better without and would be better without.

The simple fact is that the extended coverage threatens extended unemployment in Puerto Rico and, for that reason, I support the amendment under consideration.

The legislative assembly, the executive branch, and the Commonwealth of Puerto Rico are opposed to the application of the extension of coverage, either by redefinition of terms—section 102 and 103—or by revision of exemption.

I include part of the report on resolution No. 16 of the House of Representatives of Puerto Rico. The document reads as follows:

PROVISIONS THAT EXTEND THE FEDERAL FAIR LABOR STANDARDS ACT TO COVER INDUSTRIES NOT HERETOFORE SUBJECT TO SAID ACT IN PUERTO RICO, INCLUDING AGRICULTURE

By extending the coverage of the Fair Labor Standards Act, minimum wages for industries heretofore not included in its provisions, would be determined through the Industrial Committees procedure. The agricultural industry is included

As regards new industries, agriculture inclusive, the provisions of the bill to apply in the United States are directed to the circumstances of the United States economy. Although, by virtue of its federal form of government, the Union consists of 50 different political units, the truth is that the United States constitutes a geographical unit (with the only exception of Hawaii and Alaska) and, undoubtedly, an economic unit. This is the outcome of a long and well known historical development. Consequently, the concept of interstate commerce has been progressively changing in its significance and interpretation. The commercial and industrial activities do not evolve in separate state compartments. United States commerce develops throughout the entire United States geographical area. At present it is difficult to draw a line between what is interstate commerce and what is purely internal state commerce. The concept of interstate commerce has been in practice substituted for one of national internal commerce.

Although the economic development of all the geographical areas of the Union is not uniform, the differences between them are not extreme and it is possible to find, for the purpose of establishing a national minimum wage, a reasonable common denominator. It is only in a limited number of cases that minimum wages might be higher than the wages prevalent in a given industry or region.

Puerto Rico's case does not fit in this pattern. Neither does the degree of development of Puerto Rico, whose per capita income, inspite of the progress achieved during the last few years, continues to be about half the per capita income of the state of the Union having the lowest income; nor the geographical location of Puerto Rico, at a distance of not less than 1,000 miles from the eastern coast of the United States and depending for its manufacture on raw material transported from the continent; nor the lack of raw material for manufacturing purposes (except certain tropical agricultural products); nor its population density; nor its high percentage of unemployment, permit the application of the same criteria to regulate the intercostal commerce of Puerto Rico with the United States, and much less to consider the local commerce of Puerto Rico, as if immersed within or wholly integrated into the U.S. national internal commerce.

Wholesale and retail trade in Puerto Rico does not have the same effect on the wholesale and retail trade in the United States, as the wholesale and retail trade of a state has on the wholesale and retail trade of a contiguous or neighboring state. The construction industry in Puerto Rico does not and cannot have the same effect on the con-

struction industry in a state of the Union, as that of a contiguous or neighboring state in the Continent. Laundries in Puerto Rico can not possibly compete with laundries in the states of the Union; laundries more than one thousand miles apart can not influence each other from an economic point of view. Public transportation, restaurants, hotels, motels, hospitals and other related institutions, and gasoline service stations, are activities of an eminently local character in Puerto Rico and must operate within and in harmony with local economic conditions, in an insular area, not in accordance with continental economic conditions. The highest possible wage should be established for the sake of the workers, but the element of competition with the salaries of the workers of the continent does not exist. It should be born in mind that one of the two criteria that must be followed in the application of the law in Puerto Rico under the formula of the Industrial Committees is that the wages in Puerto Rico should not be so low as to permit the industries of the Island to unduly compete on the market of the United States. Such criterion would be inapplicable in the local non-agricultural industries nor in the agriculture of Puerto Rico.

Had Puerto Rico been remiss to adopt laws for the protection of the wages of its workers, the provision of federal protection by federal law might be warranted. But Puerto Rico has an efficient Minimum Wage Act since 1941, and it is a fact that under this system wages in Puerto Rico have considerably increased in the course of the years. For instance: In the manufacturing industries, from 36 cents an hour in 1946, to \$1.26 in 1965; in hotels, from 36 cents an hour in 1950, to \$1.26 in 1965; in laundries, from 35 cents in 1950, to 77 in 1964; in restaurants, from 17 cents in 1944, to 77 in 1965; in wholesale commerce, from 59 cents in 1950, to \$1.34 in 1963; in hospitals, from 27 cents in 1950 to 88 cents in 1965; and in the construction industry, from 49 cents in 1950 to \$1.27 in 1964. As a result, the distribution of Puerto Rico's income has notably improved, the proportion for wages and salaries having increased from 56.5% in 1940, to 69.0% in 1965.

The Minimum Wage Act of Puerto Rico provides that in the determination of minimum wages the conditions of each industry must be taken into account. Minimum wages should be determined at the highest level the industry is able to bear. In this respect nothing new is proposed for Puerto Rico in H.R. 13712 by the extension of coverage to new industries and agriculture. However, instead of the Industrial Committees being entirely composed of residents of the community they serve, they would be largely composed of residents in the Continent, who cannot be supposed to have a greater or even an equal knowledge of local conditions as residents here might have. Another difference would be that instead of the industrial committees being appointed by the Puerto Rico Minimum Wage Board, with permanent offices in Puerto Rico, they would be appointed by the U.S. Secretary of Labor.

It is difficult to understand how industrial committees thus composed can be more effective in the protection of the worker's wages and employment stability than the industrial committees formed under the Puerto Rican law. The economic conditions of a country visited for the first time cannot be easily understandable in a short period of days nor by those who have never lived in that community. The procedure to which employers and workers in Puerto Rico are used would be substituted for others with which they are not familiar. Any claim or complaint would have in each case to wait until the federally appointed committees are met and in operation in Puerto Rico, or else addressed to

Washington. At present, employers and workers have continuous access to the Puerto Rico Minimum Wage Committee, with its permanent office in Puerto Rico.

Although the teaching of English is compulsory in the schools of Puerto Rico and a considerable percentage of our population is knowledgeable in said language, Spanish is the community language of Puerto Rico for the same historical reasons that English is the community language of the United States. Proceedings before the Puerto Rico Minimum Wage Board are conducted in Spanish. The employers and workers of Puerto Rico not proficient in the English language would meet difficulties which they do not have today in their relationship with an official organization in charge of matters of such importance to them as the fixing of minimum wages. This would especially apply in the case of agriculture; it would affect in a large measure our rural population.

MINIMUM WAGE BILL

COMMENTS ON INDUSTRIES WHOSE EXPANSION OR PROMOTIONAL POTENTIAL WOULD BE ADVERSELY AFFECTED BY PASSAGE OF H.R. 13712

The Economic Development Administration of the Commonwealth of Puerto Rico has canvassed its promotional staff, and checked its promotional records in an attempt to ascertain the impact of the proposed amendments to the FLSA on the industrial promotion activity which is so essential to the Commonwealth's continued economic expansion. This canvass indicated the following:

Industries whose potential expansion or location in Puerto Rico would be adversely affected included, strangely enough, many that are already subject to a \$1.25 minimum in Puerto Rico. These include, first, electronics, and second, metal working industries. It was explained by promotional prospects queried on the matter that the average wage in these industries for unskilled workers in, let us say, the New York area, was currently \$1.40 to \$1.45; thus, there was a differential of 15 to 20 cents favoring a Puerto Rican location, which based on an operation of 100-plus employees was sufficient enough to overcome the added shipping costs, and so forth, inherent in a Puerto Rican location. However, a hike in the Puerto Rican minimums to \$1.60 would substantially reduce the differential, possibly to as little as 5 to 10 cents, which would not be sufficient to overcome the added costs inherent in operating in Puerto Rico. These reports, it should be noted, came from enterprises located in the Southern, Mid-Atlantic, and New England States.

Third, the next group of industries that our field reports showed would be affected were the apparel and textile products. The differential in many of these industries is currently very slim, with a Puerto Rican minimum in such activities as brassieres at \$1.27 and sweaters at \$1.22, vis-a-vis average wages in such States as North Carolina being \$1.44, Georgia, \$1.48, Alabama \$1.45, and Mississippi \$1.40. It should be noted that wages not much above these are often paid in certain areas of New York City itself.

Fourth, another industrial area that would be affected would be that of leather products—notably small leather

goods and shoes. This is particularly so in light of the import situation, where many companies, faced with the possibility of importing leather goods from low-labor-cost foreign locations, have often found a Puerto Rican location to be desirable because of a more favorable production situation vis-a-vis other mainland locales. However, as labor costs rose in Puerto Rico, with no commensurate rise in labor costs in foreign locations, the choice would be to import such goods rather than produce them in Puerto Rico.

Finally, a number of service industries—such as tool and die operations, plastic molding, and so forth—whose Puerto Rican locations are premised on the growth of the activities which they service, would find their potential growth exceedingly restricted. Of course, the many industries mentioned before, whose continued operations in Puerto Rico would be imperiled by this measure, are also characteristic of those industrial areas where Puerto Rico would lose its current promotional potential. The technical studies undertaken by the Economic Development Administration of the Commonwealth of Puerto Rico reveals that employment in the following industries would be particularly imperiled by the enactment of H.R. 13712, as it currently reads:

- A. All plants would be imperilled:
 1. Meat products.
 2. Confectionery and other food and kindred products.
 3. Men's and boys' suits and trousers.
 4. Women's blouses and shirts.
 5. Women's skirts.
 6. Nurses' and maids' uniforms.
 7. Hats, caps and millinery.
 8. Wood household furniture.
 9. Paper and allied products, n.e.c.
 10. Aluminum, metal and glass windows, doors and screens.
- B. Industries in which a majority of the jobs would be imperilled:
 1. Canning and preserving of fruit, vegetables and sea foods.
 2. Sweater knitting mills.
 3. All other knit outerwear mills.
 4. Other knitting mills.
 5. Floor covering mills.
 6. Children's and infants' outerwear.
 7. Shoulder straps.
 8. Housefurnishings, other than curtains and draperies.
 9. Other miscellaneous fabricated textile products.
 10. Furniture and fixtures, n.e.c.
 11. Corrugated and solid fiber boxes.
 12. Commercial printing.
 13. Leather goods (including belts).
 14. Plastic flowers, fruit and foliage.
 15. Stone, clay and glass products, n.e.c.
 16. Electroplating, plating and anodizing.
 17. Miscellaneous fabricated metal products and hardware.
 18. Baseballs, softballs and other leather sportgoods.
- C. Industries in which the survival of a majority of the plants (though they might not represent a majority of the employment in the industry) would be endangered:
 1. Yarn and thread mills.
 2. Dyeing and finishing of textiles.
 3. Women's, misses' and juniors' dresses.
 4. Women's and misses' sportswear.
 5. Brassieres and accessories.
 6. Dress and work gloves (excluding knit and all leather).
 7. Embroideries.

8. Curtains and draperies.
9. Plastic toys, jewelry and novelties.
10. Aluminum extrusions; coating and insulating of wire.
11. Primary metal industries, n.e.c.
12. Non-electrical machinery, n.e.c.
13. Special industrial and farm machinery.
14. Transportation equipment.
15. Precious metal jewelry.
16. Cutting and polishing of diamonds.
17. Costume jewelry and novelties.

Mr. VANIK. Mr. Chairman, I want to take this opportunity to speak in support of this legislation to increase the minimum wage for almost 30 million workers in the United States to \$1.40 per hour, effective February 1, 1967, and to \$1.60 per hour, effective February 1, 1968.

I am also in hearty support of the provision to extend coverage to some 7 million people presently not covered.

In my opinion, the Committee on Education and Labor has prepared a very wise and acceptable increase in the minimum wage which reconciles Federal minimums to present-day realities. It is an effective tool in the fight against poverty. It does not and it should not have any effect on the wage-price spiral.

The minimum wage laws in the country are most useful as a tool to bring about fair play among the States with respect to labor standards. As long as any one State can offer a minimum wage program which is significantly and competitively lower than its sister State, it can use the low wages as a device to lure industry across State borders into low-wage havens.

This country is strong because we unite in efforts to establish fair wage standards which provide a decent standard of living to the worker and which permit American industries to fairly compete with each other. However, we cannot permit the States to assault and tear down each other's wage and employment standards for temporary advantages of runaway industries which thrive upon the cruel and special privileges of cheap labor.

In the United States, today, living costs are reaching a new level which are almost uniform throughout the country. Practically no one in the United States can work for much less than his fellow citizen. The enactment of Federal minimum wage laws does not interfere with the right or privilege of workers and employers to competitively bargain for their personnel and job opportunities above minimum wage levels. The Federal law merely establishes a minimum base beyond which we cannot permit labor standards to fall.

I support this legislation because it will help preserve industrial production and industrial employment in my community from the persistent threat of industry to flee to areas of lower labor standards. The producer of goods, of course, desires to produce in the area of lowest labor costs and to sell in the communities where higher wages are received. He cannot have his cake and eat it too. The higher wage earner becomes a better consumer who constantly needs a greater supply of new products. The economy moves more effectively in a climate of fair labor standards.

Mr. VIVIAN. Mr. Chairman, I rise in support of H.R. 13712, for I approve of the principal goals of this bill: to bring a larger portion of the Nation's working population under the jurisdiction of minimum wage legislation, and to raise the minimum wage to a more meaningful level.

In fact, Mr. Chairman, it is impossible for me to understand how any sensitive person can be against this legislation. Even today, the Office of Economic Opportunity sets the poverty level at \$3,000 a year income. The bill before us today will raise the minimum wage over the next 5 years to just barely high enough to exceed that marginal level. By 1971, the minimum wage, for all except agricultural workers, will be set at \$1.60 per hour; thus each person fortunate enough to work full time—let me repeat that—work full time—then will earn not less than the grand annual sum of \$3,200 a year.

Can a family in the 1960's in the United States live decently on \$3,200 a year? I do not believe so, Mr. Chairman, and I do not believe anyone in this Chamber sincerely believes it either.

I was particularly impressed by the remarks, Tuesday, in favor of this bill by my friend and colleague on the Science and Astronautics Committee—and I might add a distinguished Member of the minority delegation in the House—the gentleman from California [Mr. BELL]. He reminded us that both the late Senator Taft and President Eisenhower strongly supported minimum wage increases and extensions in the past. The gentleman from California also effectively put the impact of this bill in human terms, when he said:

The committee, in studying this aspect of the bill, found that in industries covered by the act, 8 to 14 percent of workers who were family heads received less than \$3,000 during 1963.

However, for those not covered by the act, 33 to 49 percent of family bread winners earned less than \$3,000 a year.

We should be shocked to know that 40 percent of all children living in poverty were in families where there was a worker who had a full-time job throughout the year.

And I would call the Members' attention to the fact that the minimum wage this bill seeks to establish in 1967 for those now covered by the act will yield an annual income of \$2,800 for a 40-hour week.

Not even equal to the minimum standard set by the poverty program.

Today we have an opportunity to strike a blow against poverty while at the same time strengthening the free enterprise system.

Earlier, I introduced an amendment to this bill, which would have extended a special minimum wage to young persons under 21 years of age trying to obtain and to hold on to their first full-time job. These young people of our Nation are probably the only persons, in my opinion, who can survive on and benefit from a lesser wage, and even these young people can benefit only for a very limited period at the reduced wage. My amendment was defeated. But the bill well deserves our support as it stands.

Mr. GALLAGHER. Mr. Chairman, for three decades Congress has provided a minimum wage for millions of Amer-

icans—continually revising it to meet changing economic needs. Today's amendments to the Fair Labor Standards Act insure a livable wage for many American workers during the late 1960's and into the early seventies.

Last Tuesday was the 29th anniversary of the day President Roosevelt asked Congress to establish a minimum wage of 25 cents an hour for certain employees. One year later Congress passed the Fair Labor Standards Act, and succeeding Congresses periodically have raised the minimum level and expanded its coverage as the standard of living has increased.

It is only fair and humane that a person earn enough to meet the basic needs of his family, to retain his dignity and to make America's vast opportunities available to his children. As President Roosevelt said in his Fair Labor Standards Act message in 1937:

Our Nation so richly endowed with natural resources and with a capable and industrious population should be able to devise ways and means of insuring to all our able-bodied working men and women a fair day's pay for a fair day's work.

If a President of the United States could believe so strongly in such a statement and a Congress of the United States could support it with action in the wake of this country's most devastating depression, then surely, with our Nation enjoying its greatest prosperity, the American people and this Congress can do the same today. Action is especially urgent now because of today's record-high cost of living.

Five years ago I was proud to cosponsor the amendments to the Fair Labor Standards Act that brought more benefits to the American worker than any other action since enactment of the original legislation in 1938. I am equally proud to support today's amendments, which continue this country's excellent record of providing for its less fortunate.

Mr. FEIGHAN. Mr. Chairman, the concerns we have expressed in this body over the need to reduce and eventually to eradicate poverty from among us has already taken the form of many programs, centering in those authorized by the Economic Opportunity Act of 2 years ago. On a dozen fronts we are training, retraining, moving men to the jobs, moving jobs to the men, providing new opportunities for the disadvantaged, the sick, the minority groups, youth, women, even those just released from prison.

These programs all have one common feature—the aim of helping those who do not work, either because they are unable to work, or for one reason or another, because they are unable to find a job. These programs have received and will continue to receive my support and encouragement. There is nothing in our free society more discouraging than to need and to seek work and to be denied an opportunity to work and to be self-supporting.

There is one possible exception, Mr. Chairman. That is to have a job and to work and to earn so little that, working full time, the worker finds himself and his family unable to overcome the day-to-day burdens of poverty.

It is the problems of the working poor that we are concerned with here today. The unemployed number some 3 million. Employees who are presently within the scope of the Fair Labor Standards Act and earning less than \$1.60 an hour are estimated to number nearly 6 million. We are proposing to bring several additional million workers, including at least a million presently earning less than \$1 an hour, within the protection of that act. H.R. 13712 is a bill for the protection of the working poor, not the unemployed or the nonworking poor. It is about time we did something for those who are employed full time yet their meager earnings find them in reality among the ranks of the poor by any reasonable standard of judgment.

H.R. 13712 will not, as it is written, end the poverty of the working poor. Even at \$1.60 an hour, a rate which will not be reached under the bill until 1968 for those now covered, and as late as 1971 for those we are now proposing to cover, we do not lift a family out of a dismal life of poverty. On the average it will eventually enable these workers to earn approximately \$3,200 a year, which we recognize society should provide were no member of this family able to work.

Indeed, for those employed in agriculture whom we are proposing to bring within the scope of the act, we are proposing to increase these workers to only \$1.30 an hour, and that only in 1969.

But, by these amendments to the Fair Labor Standards Act, we are taking a step, and a long overdue step, in the direction of raising the floor under wages to a level closer to the objective which has been a part of the "finding and declaration of policy" of the act since its enactment, back in 1938. That is, the elimination of wages so low they do not enable the man or woman who works to maintain a "minimum standard of living necessary for health, efficiency, and general well-being."

After all that we have done to aid those who do not work, in order that they may have a decent level of self-respect, can we in conscience refuse to aid those who do work so that they may earn a minimum wage? Does it make sense to go on training the unemployed, paying them a subsistence rate of \$1.25 an hour, in order that they may, when trained, take a job which pays only \$1 an hour?

Mr. Chairman, I urge the passage of H.R. 13712 as a matter not only of economic justice, but of conscience and commonsense.

The CHAIRMAN. The question is on the committee substitute amendment, as amended.

The committee substitute amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee will rise.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. PRICE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other pur-

poses, pursuant to House Resolution 851, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote on any amendment demanded?

Mr. DENT. Mr. Speaker, the committee demands a separate vote on the so-called Anderson amendment and the so-called Ayres-Morris amendment.

The SPEAKER. The Clerk will report the first amendment on which a separate vote has been demanded.

The Clerk read as follows:

On page 33, strike out lines 6 through 17 and insert in lieu thereof the following:

"(1) is an enterprise (A) whose annual gross volume of sales is not less than \$500,000 (exclusive of excise taxes at the retail level which are separately stated) (B) which has one or more retail or service establishments, and (C) which purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more;

"(2) is a gasoline service establishment whose annual gross volume of sales is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated).

"(3) is an establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000;"

On page 33, line 18, strike out "(2)" and insert in lieu thereof "(4)"; line 20, strike out "(3)" and insert in lieu thereof "(5)"; and, in line 22, strike out "(4)" and insert in lieu thereof "(6)".

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the "noes" appeared to have it.

Mr. ANDERSON of Illinois. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 195, nays 200, answered "present" 3, not voting 33, as follows:

[Roll No. 113]

YEAS—195

Abbott	Broyhill, Va.	Dowdy
Abernethy	Buchanan	Downing
Adair	Burleson	Duncan, Tenn.
Anderson, Ill.	Byrnes, Wis.	Edwards, Ala.
Andrews	Cabell	Edwards, La.
George W.	Callan	Ellsworth
Andrews	Callaway	Everett
Glenn	Carter	Findley
Andrews	Casey	Fisher
N. Dak.	Cederberg	Flynt
Arends	Chamberlain	Ford, Gerald R.
Ashbrook	Chelf	Fountain
Ashmore	Clancy	Frelinghuysen
Aspinall	Clark	Fuqua
Ayres	Clausen	Gathings
Baring	Don H.	Gettys
Bates	Cleveland	Goodeil
Battin	Collier	Gross
Beckworth	Conable	Grover
Belcher	Cooley	Gubser
Bennett	Craley	Gurney
Berry	Cramer	Hagan, Ga.
Betts	Curtin	Haley
Bolton	Curtis	Hall
Bow	Dague	Halleck
Bray	Davis, Wis.	Harsha
Brock	Derwinski	Harvey, Ind.
Broomfield	Devine	Harvey, Mich.
Brown, Clarence J., Jr.	Dickinson	Hays
Broyhill, N.C.	Dole	Hébert
	Dorn	Henderson

Herlong	Mize
Horton	Moore
Hosmer	Morris
Hull	Morrison
Hutchinson	Morse
Ichord	Mosher
Jarman	Natcher
Jennings	Nelsen
Johnson, Pa.	Olson, Minn.
Jonas	O'Neal, Ga.
Jones, Mo.	Passman
Jones, N.C.	Pickle
Keith	Pirnie
King, N.Y.	Poage
King, Utah	Poff
Kornegay	Pool
Kunkel	Purcell
Kupferman	Quile
Laird	Quillen
Langen	Reid, N.Y.
Latta	Reifel
Lennon	Reinecke
Lipscomb	Rhodes, Ariz.
Long, La.	Rivers, S.C.
McClory	Roberts
McCulloch	Robison
McEwen	Rogers, Fla.
McMillan	Rogers, Tex.
Mahon	Roudebush
Marsh	Rumsfeld
Martin, Nebr.	Satterfield
Mathias	Schneebell
Matthews	Scott
May	Secrest
Michel	Selden
Minshall	Shriver

NAYS—200

Adams	Gilligan	Nix
Addabbo	Gonzalez	O'Brien
Albert	Grabowski	O'Hara, Ill.
Anderson	Gray	O'Hara, Mich.
Tenn.	Green, Oreg.	O'Konski
Annunzio	Green, Pa.	Olsen, Mont.
Ashley	Greigg	O'Neill, Mass.
Bandstra	Grider	Patman
Barrett	Griffiths	Patten
Bell	Hagen, Calif.	Pepper
Bingham	Halpern	Perkins
Blatnik	Hamilton	Philbin
Boggs	Hanley	Pike
Boland	Hansen, Wash.	Powell
Bolling	Hathaway	Price
Brademas	Hawkins	Pucinski
Brooks	Hechler	Race
Brown, Calif.	Helstoski	Randall
Burke	Hicks	Redlin
Burton, Calif.	Hollifield	Rees
Byrne, Pa.	Holland	Resnick
Cahill	Howard	Reuss
Cameron	Hungate	Rhodes, Pa.
Carey	Huot	Rivers, Alaska
Celler	Irwin	Rodino
Clevenger	Jacobs	Rogers, Colo.
Cohelan	Joelson	Ronan
Conyers	Johnson, Calif.	Rooney, Pa.
Corbett	Johnson, Okla.	Rostenkowski
Culver	Jones, Ala.	Roush
Cunningham	Karsten	Roybal
Daddario	Karth	Ryan
Daniels	Kastenmeier	St Germain
Davis, Ga.	Kee	St. Onge
Dawson	Kelly	Saylor
Delaney	Keogh	Scheuer
Dent	King, Calif.	Schisler
Denton	Kirwan	Schmidhauser
Diggs	Kluczynski	Schweiker
Dingell	Krebs	Senner
Donohue	Landrum	Shipley
Dow	Leggett	Sickles
Dulski	Long, Md.	Sisk
Duncan, Oreg.	Love	Slack
Dwyer	McCarthy	Smith, Iowa
Dyal	McDade	Staggers
Edmondson	McDowell	Stalbaum
Edwards, Calif.	McFall	Sullivan
Fallon	McGrath	Sweeney
Farbstein	McVicker	Thomas
Farnsley	Macdonald	Todd
Farnum	Machen	Trimble
Fascell	Mackay	Tunney
Feighan	Mackie	Tupper
Fino	Madden	Tuten
Flood	Mailliard	Udall
Fogarty	Matsunaga	Ullman
Foley	Meeds	Van Deerlin
Ford	Mills	Vanik
William D.	Minish	Vigorito
Fraser	Mink	Vivian
Friedel	Monagan	Weltner
Fulton, Pa.	Moorhead	Wolf
Fulton, Tenn.	Morgan	Yates
Gallagher	Multer	Zablocki
Garmatz	Murphy, Ill.	
Gialmo	Murphy, N.Y.	
Gibbons	Nedzi	

ANSWERED "PRESENT"—3

Conte Ottinger Pelly

NOT VOTING—33

Burton, Utah Hardy Smith, Calif.
Clawson, Del MacGregor Tenzer
Colmer Martin, Ala. Thompson, N.J.
Corman Martin, Mass. Toll
de la Garza Miller Walker, Miss.
Erlenborn Moeller Whalley
Evans, Colo. Morton Williams
Evins, Tenn. Moss Willis
Gilbert Murray Wilson,
Hanna Reid, Ill. Charles H.
Hansen, Idaho Roncallo
Hansen, Iowa Rooney, N.Y.

So the amendment was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Hansen of Idaho for, with Mr. Evans of Colorado against.
Mr. Morton for, with Mr. Gilbert, against.
Mr. Ottinger for, with Mr. Rooney of New York against.
Mr. Reid of Illinois for, with Mr. Conte against.
Mr. Erlenborn for, with Mr. Pelly against.
Mr. Murray for, with Mr. Miller against.
Mr. Smith of California for, with Mr. Thompson of New Jersey against.
Mr. Walker of Mississippi for, with Mr. Moss against.
Mr. Burton of Utah for, with Mr. Charles H. Wilson against.
Mr. Evins of Tennessee for, with Mr. Moeller against.
Mr. Willis with Mr. Whalley.
Mr. Tenzer with Mr. Martin of Massachusetts.

Until further notice:

Mr. Hansen of Iowa with Mr. Del Clawson.
Mr. Hanna with Mr. MacGregor.
Mr. Williams with Mr. Martin of Alabama.
Mr. Hardy with Mr. de la Garza.
Mr. Colmer with Mr. Corman.
Mr. Roncallo with Mr. Toll.

Mr. CONTE. Mr. Speaker, I have a live pair with the gentlewoman from Illinois [Mrs. REID]. If she were present, she would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. PELLY. Mr. Speaker, I have a live pair with the gentleman from Illinois [Mr. ERLBORN]. If he were present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. OTTINGER. Mr. Speaker, I have a live pair with the gentleman from New York [Mr. ROONEY]. If he were present, he would have voted "nay." I voted "yea." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will report the second amendment on which a separate vote has been demanded.

The Clerk read as follows:

On page 46, line 25, strike the word "year" and insert "two years."

The SPEAKER. The question is on the amendment.

Mr. AYRES. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 205, nays 194, not voting 32, as follows:

[Roll No. 114]

YEAS—205

Abbott
Abernethy
Adair
Anderson, Ill.
Andrews,
George W.
Andrews,
Glenn
Andrews,
N. Dak.
Arends
Ashbrook
Ashmore
Aspinall
Ayres
Baring
Bates
Battin
Beckworth
Belcher
Bennett
Berry
Betts
Bolton
Bow
Bray
Brook
Broomfield
Brown, Clarence J., Jr.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burleson
Byrnes, Wis.
Cabell
Callan
Callaway
Carter
Casey
Cederberg
Chamberlain
Chelf
Clancy
Clausen,
Don H.
Cleveland
Collier
Conable
Cooley
Corbett
Craley
Cramer
Cunningham
Curtin
Curtis
Dague
Davis, Wis.
Derwinski
Devine
Dole
Dorn
Dowdy
Downing
Duncan, Tenn.
Edmondson
Edwards, Ala.
Ellsworth
Everett
Findley
Fisher
Flynt
Ford, Gerald R.
Fountain
Frelinghuysen
Fulton, Pa.
Fulton, Tenn.
Fuqua
Gathings
Gettys
Goodell
Greigg
Grider
Gross
Grover
Gubser
Gurney
Hagan, Ga.
Haley
Halleck
Harsha
Harvey, Ind.
Harvey, Mich.
Hays
Hébert
Henderson
Herlong
Hosmer
Hull
Hutchinson
Ichord
Jarman
Jennings
Johnson, Okla.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, Mo.
Jones, N.C.
Keith
King, N.Y.
King, Utah
Kornegay
Kunkel
Laird
Landrum
Langen
Latta
Lennon
Lipscomb
Long, La.
McClory
McCulloch
McEwen
McMillan
Mahon
Marsh
Martin, Nebr.
Mathias
Matthews
May
Michel
Mills
Minshall
Mize
Moore
Morris
Mosher
Murray
Natcher
Nelsen
O'Konski
Olsen, Mont.
Olson, Minn.
O'Neal, Ga.
Passman
Pickle
Pike
Pirnie
Poage
Poff
Pool
Purcell
Quile
Quillen
Redlin
Relfel
Reinecke
Rhodes, Ariz.
Rivers, S.C.
Roberts
Robison
Rogers, Fla.
Rogers, Tex.
Roudebush
Rumsfeld
Satterfield
Saylor
Schneebeli
Scott
Secrest
Selden
Shriver
Sikes
Skubitz
Smith, N.Y.
Smith, Va.
Springer
Stafford
Stalbaum
Stanton
Steed
Stephens
Stubblefield
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Thompson, Tex.
Thomson, Wis.
Tuck
Tuten
Utt
Vigorito
Waggoner
Walker, N. Mex.
Watkins
Watson
Watts
White, Idaho
White, Tex.
Whitener
Whitten
Widnall
Willson, Bob
Wright
Wyatt
Young
Younger

NAYS—194

Adams
Addabbo
Albert
Anderson,
Tenn.
Annunzio
Ashley
Bandstra
Barrett
Bell
Bingham
Blatnik
Boggs
Boland
Bolling
Brademas
Brooks
Brown Calif.
Burke
Burton, Calif.
Byrne, Pa.
Cahill
Cameron
Carey
Celler
Clark
Clevenger
Cohelan
Conte
Conyers
Culver
Daddario
Daniels
Davis, Ga.
Dawson
Delaney
Dent
Denton
Diggs
Dingell
Donohue
Dow
Dulski
Duncan, Oreg.
Dwyer
Dyal
Edwards, Calif.
Edwards, La.
Fallon
Farbsteln
Farnsley
Farnum
Fascell
Feighan
Fino
Flood
Fogarty
Foley
Ford,
William D.
Fraser
Friedel
Gallagher
Garmatz
Gialmo
Gibbons
Gilligan
Gonzalez
Grabowski
Gray
Green, Oreg.
Green, Pa.

Griffiths
Hagen, Calif.
Halpern
Hamilton
Hanley
Hansen, Wash.
Hathaway
Hawkins
Hechler
Helstoski
Hicks
Hollifield
Holland
Horton
Howard
Hungate
Huot
Irwin
Jacobs
Joelson
Johnson, Calif.
Karsten
Karth
Kastenmeier
Kee
Kelly
Keogh
King, Calif.
Kirwan
Kluczynski
Krebs
Kupferman
Leggett
Long, Md.
Love
McCarthy
McDade
McDowell
McFall
McGrath
McVicker
Macdonald
Machen
Mackay
Mackle
Madden
Mailliard
Matsunaga
Meeds
Minish
Mink
Monagan
Moorhead
Morgan
Morrison
Morse
Multer
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nix
O'Brien
O'Hara, Ill.
O'Hara, Mich.
O'Neill, Mass.
Ottinger
Patman
Patten
Pelly
Pepper
Perkins
Philbin
Powell
Price
Pucinski
Race
Randall
Rees
Reid, N.Y.
Resnick
Reuss
Rhodes, Pa.
Rivers, Alaska
Rodino
Rogers, Colo.
Ronan
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roybal
Ryan
St Germain
St. Onge
Scheuer
Schisler
Schmidhauser
Schwelker
Senner
Shipley
Sickles
Sisk
Slack
Smith, Iowa
Staggers
Stratton
Sullivan
Sweeney
Tenzer
Thomas
Todd
Trimble
Tunney
Tupper
Udall
Ullman
Van Deerlin
Vanik
Vivian
Weltner
Wolf
Wyder
Yates
Zablocki

NOT VOTING—32

Burton, Utah Hansen, Idaho Roncallo
Clawson, Del Hansen, Iowa Rooney, N.Y.
Colmer Hardy Smith, Calif.
Corman MacGregor Thompson, N.J.
de la Garza Martin, Ala. Toll
Dickinson Martin, Mass. Walker, Miss.
Erlenborn Miller Whalley
Evans, Colo. Moeller Williams
Evins, Tenn. Morton Willis
Gilbert Moss Wilson,
Hanna Reid, Ill. Charles H.

So the amendment was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Burton of Utah for, with Mr. Rooney of New York against.
Mr. Smith of California for, with Mr. Gilbert against.
Mr. Morton for, with Mr. Thompson of New Jersey against.
Mr. Hansen of Idaho for, with Mr. Miller against.
Mr. Dickinson for, with Mr. Hanna against.
Mr. Walker of Mississippi for, with Mr. Moss against.
Mr. Hansen of Iowa for, with Mr. Evans of Colorado against.

Until further notice:

Mr. Ashley with Mr. Martin of Massachusetts.
Mr. Colmer with Mr. Reid of Illinois.
Mr. Charles H. Wilson with Mr. MacGregor.
Mr. Evins of Tennessee with Mr. Martin of Alabama.
Mr. Moeller with Mr. Erlenborn.
Mr. Williams with Mr. Whalley.
Mr. Willis with Mr. Toll.
Mr. Hardy with Mr. Corman.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. ALBERT). The question is on the amendment as amended.

The amendment as amended was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. MARTIN of Nebraska. Mr. Speaker, I offer a motion to recommit the bill.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MARTIN of Nebraska. I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MARTIN of Nebraska moves that the bill H.R. 13712 be recommitted to the Committee on Education and Labor with instructions to report the bill back to the House forthwith with the following amendments:

Delete section 103, entitled "Agricultural Employees", beginning on line 15, page 34, through line 14, page 35.

Delete section 203, entitled "Agricultural Employees", beginning on line 5, page 37, through line 14, page 38.

Delete section 302, entitled "Agricultural Employees", beginning on line 18, page 47, through line 3, page 48.

Delete section 501(c), beginning on line 4, page 56, through line 17, page 56.

On page 40, lines 3 and 4, strike out the words "(other than an industry described in subsection (d))."

On page 40, line 6, strike out the word "ten" and insert the word "twelve."

On page 40, line 7, strike out the word "forty-eight" and insert the word "fifty-six."

On page 40, line 10, strike out the word "employed" and insert the following: "employed: *Provided*, That in any place of employment in which the exemptions provided in this subsection and subsection (d) both apply to employees, the number of exempt workweeks provided by this subsection shall not exceed ten in any calendar year, which shall be in addition to the ten exempt workweeks provided by subsection (d)."

On page 40, line 11 through page 41, line 13, strike out all of subsection (d) and insert the following new subsection (d):

"(d) In the case of an employer engaged in the first processing of milk, buttermilk, whey, skimmed milk, or cream into dairy products or in the compressing of cotton, or in the processing of cottonseed, or in the processing of sugar beets, sugar beet molasses, sugarcane, or maple sap, into sugar (but not refined sugar) or into sirup, the provisions of subsection (a) shall not apply to his employees in any place of employment where he is so engaged; and in the case of an employer engaged in the first processing of, or in canning or packing, perishable or seasonal fresh fruits or vegetables, or in the first processing, within the area of production (as defined by the Secretary), of any agricultural or horticultural commodity during seasonal operations, or in handling, slaughtering, or dressing poultry or livestock, the provisions of subsection (a), during a period or periods of not more than ten workweeks in the aggregate in any calendar year, shall not apply to his employees in any place of employment where he is so engaged."

Mr. MARTIN of Nebraska (during reading of motion to recommit). Mr. Speaker, I ask unanimous consent that

the motion to recommit be considered as read. I explained the motion earlier. It eliminates completely the coverage in agriculture through the amendment which I offered on yesterday, and the amendment of the gentleman from New York [Mr. GOODELL] in regard to processors as contained therein.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. MARTIN of Nebraska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 168, nays 231, not voting 32, as follows:

[Roll No. 115]

YEAS—168

Abbott	Edwards, La.	Morrison
Abernethy	Everett	Murray
Adair	Findley	Natcher
Anderson, Ill.	Flsher	Nelsen
Andrews,	Flynt	Olsen, Mont.
George W.	Ford, Gerald R.	O'Neal, Ga.
Andrews,	Fountain	Passman
Glenn	Frelinghuysen	Pickle
Andrews,	Fuqua	Pirnie
N. Dak.	Gathings	Poage
Arends	Gettys	Poff
Ashbrook	Goodell	Pool
Ashmore	Gross	Purcell
Baring	Gurney	Quillen
Battin	Hagan, Ga.	Reifel
Beckworth	Haley	Rhodes, Ariz.
Belcher	Hall	Rivers, S.C.
Berry	Halleck	Roberts
Betts	Harsha	Robison
Bolton	Harvey, Ind.	Rogers, Fla.
Bow	Harvey, Mich.	Rogers, Tex.
Bray	Hébert	Roudebush
Brock	Henderson	Rumsfeld
Brown, Clarence J., Jr.	Herlong	Satterfield
Broyhill, N.C.	Hosmer	Schneebell
Broyhill, Va.	Hutchinson	Scott
Buchanan	Jarman	Selden
Burleson	Jennings	Shriver
Byrnes, Wis.	Johnson, Pa.	Sikes
Cabell	Jonas	Skubitz
Callaway	Jones, Ala.	Smith, N.Y.
Carter	Jones, Mo.	Smith, Va.
Cederberg	Jones, N.C.	Springer
Chamberlain	King, N.Y.	Stafford
Chelf	King, Utah	Stanton
Clancy	Kornegay	Steed
Clausen,	Kunkel	Stephens
Don H.	Laird	Stratton
Cleveland	Landrum	Stubblefield
Conable	Langen	Taylor
Cooley	Latta	Teague, Tex.
Cramer	Lennon	Thompson, Tex.
Cunningham	Lipscomb	Thomson, Wis.
Curtin	Long, La.	Tuck
Curtis	McClory	Tuten
Dague	McCulloch	Utt
Davis, Wis.	McEwen	Vigorito
Derwinski	McMillan	Waggonner
Devine	Mahon	Watkins
Dickinson	Marsh	Watson
Dole	Martin, Nebr.	Watts
Dorn	Mathias	White, Tex.
Dowdy	Matthews	Whitener
Downing	May	Whitten
Duncan, Tenn.	Michel	Wilson, Bob
Edmondson	Mills	Wyatt
Edwards, Ala.	Minshall	Young
	Mize	

NAYS—231

Adams	Bates	Brown, Calif.
Addabbo	Bell	Burke
Albert	Bennett	Burton, Calif.
Anderson,	Bingham	Byrne, Pa.
Tenn.	Blatnik	Cahill
Annunzio	Boggs	Callan
Ashley	Boland	Cameron
Aspinall	Bolling	Carey
Ayres	Brademas	Casey
Bandstra	Brooks	Celler
Barrett	Broomfield	Clark

Clevenger	Hollifield	Perkins
Cohelan	Holland	Philbin
Collier	Horton	Pike
Conte	Howard	Powell
Conyers	Hull	Price
Corbett	Hungate	Pucinski
Craley	Huot	Quile
Culver	Ichord	Race
Daddario	Irwin	Randall
Daniels	Jacobs	Redlin
Davis, Ga.	Joelson	Rees
Dawson	Johnson, Calif.	Reid, N.Y.
Delaney	Johnson, Okla.	Reinecke
Dent	Karsten	Resnick
Denton	Karth	Reuss
Diggs	Kastenmeier	Rhodes, Pa.
Dingell	Kee	Rivers, Alaska
Donohue	Keith	Rodino
Dow	Kelly	Rogers, Colo.
Dulski	Keogh	Ronan
Duncan, Oreg.	King, Calif.	Rooney, Pa.
Dwyer	Kirwan	Rosenthal
Dyal	Kluczynski	Roush
Edwards, Calif.	Krebs	Roybal
Ellsworth	Kupferman	Ryan
Fallon	Leggett	St Germain
Farbstein	Long, Md.	St. Onge
Farnsley	Love	Saylor
Farnum	McCarthy	Scheuer
Fascell	McDade	Schisler
Feighan	McDowell	Schmidhauser
Fino	McFall	Schweiker
Flood	McGrath	Secrest
Fogarty	McVicker	Senner
Foley	Macdonald	Shipley
Ford,	Machen	Sickles
William D.	Mackay	Sisk
Fraser	Mackie	Slack
Friedel	Madden	Smith, Iowa
Fulton, Pa.	Mailliard	Staggers
Fulton, Tenn.	Matsunaga	Stalbaum
Gallagher	Medcs	Sullivan
Garmatz	Minish	Sweeney
Gialmo	Mink	Talcott
Gibbons	Monagan	Teague, Calif.
Gilligan	Moore	Tenzer
Gonzalez	Moorhead	Thomas
Grabowski	Morgan	Todd
Gray	Morris	Trimble
Green, Oreg.	Morse	Tunney
Green, Pa.	Mosher	Tupper
Greigg	Multer	Udall
Grider	Murphy, Ill.	Ullman
Griffiths	Murphy, N.Y.	Van Deerlin
Grover	Nedzi	Vanik
Gubser	Nix	Vivian
Hagen, Calif.	O'Brien	Walker, N. Mex.
Halpern	O'Hara, Ill.	Weltner
Hamilton	O'Hara, Mich.	White, Idaho
Hanley	O'Konski	Widnall
Hansen, Wash.	Olson, Minn.	Wolf
Hathaway	O'Neill, Mass.	Wright
Hawkins	Ottinger	Wydler
Hays	Patman	Yates
Hechler	Patten	Younger
Helstoski	Pelly	Zablocki
Hicks	Pepper	

NOT VOTING—32

Burton, Utah	Hansen, Iowa	Rooney, N.Y.
Clawson, Del	Hardy	Rostenkowski
Colmer	MacGregor	Smith, Calif.
Corman	Martin, Ala.	Thompson, N.J.
de la Garza	Martin, Mass.	Toll
Erlenborn	Miller	Walker, Miss.
Evans, Colo.	Moeller	Whalley
Evins, Tenn.	Morton	Williams
Gilbert	Moss	Willis
Hanna	Reid, Ill.	Wilson,
Hansen, Idaho	Roncallo	Charles H.

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Burton of Utah for, with Mr. Rooney of New York against.

Mr. Smith of California for, with Mr. Gilbert against.

Mr. Morton for, with Mr. Evans of Colorado against.

Mr. Hansen of Idaho for, with Mr. Miller against.

Mr. Walker of Mississippi for, with Mr. Evins of Tennessee against.

Until further notice:

Mr. Rostenkowski with Mr. Whalley.

Mr. Moeller with Mr. Martin of Massachusetts.

Mr. Hanna with Mr. Erlenborn.
Mr. Thompson of New Jersey with Mr. Del Clawson.
Mr. Charles H. Wilson with Mr. MacGregor.
Mr. Moss with Mrs. Reid of Illinois.
Mr. Corman with Mr. Martin of Alabama.
Mr. Colmer with Mr. Toll.
Mr. Williams with Mr. Hansen of Iowa.
Mr. Hardy with Mr. Willis.
Mr. Roncalio with Mr. de la Garza.

Mr. DON H. CLAUSEN changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. GERALD R. FORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 303, nays 93, answered "present" 1, not voting 34, as follows:

[Roll No. 116]

YEAS—303

Adair	Dow	Karsten
Adams	Dulski	Karth
Addabbo	Duncan, Oreg.	Kastenmeier
Albert	Dwyer	Kee
Anderson, Ill.	Dyal	Keith
Anderson, Tenn.	Edmondson	Kelly
Andrews, N. Dak.	Edwards, Calif.	Keogh
Annunzio	Ellsworth	King, Calif.
Arends	Everett	King, N.Y.
Ashbrook	Fallon	Kirwan
Ashley	Farbstein	Kluczynski
Aspinali	Farnsley	Kornegay
Ayres	Farnum	Krebs
Bandstra	Fascell	Kupferman
Barrett	Feighan	Laird
Bates	Fino	Landrum
Beckworth	Flood	Latta
Bell	Fogarty	Leggett
Bennett	Foley	Long, La.
Berry	Ford, Gerald R.	Long, Md.
Betts	Ford,	Love
Bingham	William D.	McCarthy
Blatnik	Fraser	McCulloch
Boggs	Frelinghuysen	McDade
Boland	Friedel	McDowell
Bolling	Fulton, Pa.	McEwen
Bolton	Fulton, Tenn.	McFall
Bow	Gallagher	McGrath
Brademas	Garmatz	McVicker
Brooks	Gialmo	Macdonald
Broomfield	Gibbons	Machen
Brown, Calif.	Gilligan	Mackay
Brown, Clarence J., Jr.	Gonzalez	Mackie
Broyhill, N.C.	Goodell	Madden
Burke	Grabowski	Mailliard
Burton, Calif.	Gray	Mathias
Byrne, Pa.	Green, Oreg.	Matsunaga
Cahill	Green, Pa.	May
Callan	Greigg	Meeds
Cameron	Grider	Michel
Carey	Griffiths	Mills
Carter	Grover	Minish
Celler	Gubser	Mink
Chamberlain	Hagen, Calif.	Minshall
Clancy	Halleck	Mize
Clark	Halpern	Monagan
Clausen, Don H.	Hamilton	Moore
Cleveland	Hanley	Moorhead
Clevenger	Hansen, Wash.	Morgan
Collier	Harsha	Morris
Conable	Harvey, Mich.	Morrison
Conte	Hathaway	Morse
Conyers	Hawkins	Mosher
Corbett	Hays	Multer
Craley	Hechler	Murphy, Ill.
Cramer	Helstoski	Murphy, N.Y.
Culver	Hicks	Nedzi
Cunningham	Hollifield	Nix
Daddario	Holland	O'Brien
Daniels	Horton	O'Hara, Ill.
Davis, Ga.	Hosmer	O'Hara, Mich.
Dawson	Howard	O'Konski
Delaney	Hungate	Olsen, Mont.
Dent	Huot	Olson, Minn.
Denton	Ichord	O'Neill, Mass.
Derwinski	Irwin	Ottinger
Devine	Jacobs	Passman
Diggs	Jennings	Patman
Dingell	Joelson	Patten
Donohue	Johnson, Calif.	Pelly
	Johnson, Okla.	Pepper
	Johnson, Pa.	Perkins
	Jonas	Philbin
	Jones, Ala.	Pickle

Pike	St. Onge
Plumie	Saylor
Powell	Scheuer
Price	Schlesier
Pucinski	Schmidhauser
Quile	Schneebell
Race	Schwelker
Randall	Secrest
Redlin	Senner
Rees	Shipley
Reid, N.Y.	Shriver
Reifel	Sickles
Reinecke	Sisk
Resnick	Skubitz
Reuss	Slack
Rhodes, Ariz.	Smith, Iowa
Rhodes, Pa.	Smith, N.Y.
Rivers, Alaska	Springer
Robison	Stafford
Rodino	Staggers
Rogers, Colo.	Stalbaum
Rogers, Fla.	Stanton
Ronan	Steed
Rooney, Pa.	Stratton
Rosenthal	Sullivan
Roush	Sweeney
Roybal	Talcott
Ryan	Taylor
St Germain	Teague, Calif.

NAYS—93

Abbott	Edwards, Ala.	Matthews
Abernethy	Edwards, La.	Murray
Andrews, George W.	Findley	Natcher
Andrews, Glenn	Fisher	Nelsen
Ashmore	Flynt	O'Neal, Ga.
Baring	Fountain	Poage
Battin	Fuqua	Poff
Belcher	Gathings	Pool
Bray	Gross	Purcell
Buchanan	Gurney	Quillen
Burleson	Hagan, Ga.	Rivers, S.C.
Byrnes, Wls.	Haley	Rogers
Cabell	Hall	Rogers, Tex.
Callaway	Harvey, Ind.	Roudebush
Casey	Hébert	Rumsfeld
Cederberg	Henderson	Satterfield
Chelf	Herlong	Scott
Cooley	Hull	Selden
Curtin	Hutchinson	Smith, Va.
Curtis	Jarman	Stephens
Dague	Jones, Mo.	Stubblefield
Davis, Wls.	Jones, N.C.	Teague, Tex.
Dickinson	King, Utah	Thompson, Tex.
Dole	Kunkel	Thomson, Wls.
Dorn	Langen	Tuck
Dowdy	Lennon	Utt
Downing	Lipscorn	Waggonner
Duncan, Tenn.	McClary	Watkins
	McMillan	Watson
	Mahon	Watts
	Marsh	Whitten
	Martin, Nebr.	

ANSWERED "PRESENT"—1

Gettys

NOT VOTING—34

Burton, Utah	Hansen, Iowa	Rostenkowski
Clawson, Del	Hardy	Sikes
Cohelan	MacGregor	Smith, Calif.
Colmer	Martin, Ala.	Thompson, N.J.
Corman	Martin, Mass.	Toll
de la Garza	Miller	Walker, Miss.
Erlenborn	Moeller	Whalley
Evans, Colo.	Morton	Williams
Evins, Tenn.	Moss	Willis
Gilbert	Reid, Ill.	Wilson
Hanna	Roncalio	Charles H.
Hansen, Idaho	Rooney, N.Y.	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Morton for, with Mr. Burton of Utah against.

Mr. Rooney of New York for, with Mr. Walker of Mississippi against.

Mr. Evans for, with Mr. Sikes against.

Mr. Gilbert for, with Mr. Gettys against.

Mr. Rostenkowski for, with Mr. Smith of California against.

Mr. Thompson of New Jersey for, with Mr. Hansen of Idaho against.

Until further notice:

Mr. Miller with Mr. Whalley.

Mr. Hardy with Mr. MacGregor.

Mr. Moss with Mr. Martin of Massachusetts.

Mr. Evins of Tennessee with Mr. Erlenborn.

Mr. Moeller with Mr. Martin of Alabama.
Mr. Charles H. Wilson with Mr. Del Clawson.

Mr. Cohelan with Mrs. Reid of Illinois.
Mr. Hansen of Iowa with Mr. Hanna.
Mr. Williams with Mr. Toll.
Mr. Corman with Mr. Willis.
Mr. Colmer with Mr. Roncalio.

Mr. CARTER changed his vote from "nay" to "yea."

Mr. GETTYS. Mr. Speaker, I have a live pair with the gentleman from New York [Mr. GILBERT]. If he had been present he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. DENT. Mr. Speaker, I ask unanimous consent that all Members be given 5 days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DENT. Mr. Speaker, before leaving, on behalf of the committee, I would like to thank the membership of the House for their very courteous treatment and their kindness throughout a day of turmoil on this bill.

I would also like to make the announcement that with the aid of the amendment of the gentleman from Illinois [Mr. COLLIER], which we are grateful for, the coverage is now approximately 7,590,000 persons.

PROVIDING FOR AN ADDITIONAL CLERK FOR ALL HOUSE MEMBERS

Mr. FRIEDEL. Mr. Speaker, by direction of the Committee on House Administration, I offer a privileged resolution (H. Res. 855) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 855

Resolved, That, effective on the first day of the first month which begins after the date of adoption of this resolution, there shall be paid out of the contingent fund of the House, until otherwise provided by law, such sums as may be necessary to increase the basic clerk hire allowance of each Member and the Resident Commissioner from Puerto Rico by an additional \$7,500 per annum, and each such Member and Resident Commissioner shall be entitled to one clerk in addition to those to which he is otherwise entitled.

With the following committee amendment:

Line 7, strike out "\$7,500" and insert "\$7,000".

Mr. FRIEDEL. Mr. Speaker, this resolution is a very simple one.

House Resolution 855 provides for an increase in the basic clerk hire allowance of \$7,000 per annum and authority for one additional clerk for each Member of the House of Representatives.

At the present time each Member representing a district of less than 500,000 population has a basic clerk hire

89TH CONGRESS
2D SESSION

H. R. 13712

IN THE SENATE OF THE UNITED STATES

MAY 27, 1966

Read twice and referred to the Committee on Labor and Public Welfare

AN ACT

To amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Fair Labor Standards
4 Amendments of 1966".

TITLE I—DEFINITIONS

TIPS

7 SEC. 101. (a) Section 3 (m) of the Fair Labor Stand-
8 ards Act of 1938 is amended by adding at the end thereof
9 the following new sentence: "In determining the wage of a
10 tipped employee, the amount paid such employee by his em-

1 ployer shall be deemed to be increased on account of tips by
 2 an amount determined by the employer, but not by an
 3 amount in excess of 45 per centum of the applicable mini-
 4 mum wage rate, except that in the case of an employee who
 5 (either himself or acting through his representative) shows
 6 to the satisfaction of the Secretary that the actual amount of
 7 tips received by him was less than the amount determined
 8 by the employer as the amount by which the wage paid
 9 him was deemed to be increased under this sentence, the
 10 amount paid such employee by his employer shall be deemed
 11 to have been increased by such lesser amount.”

12 (b) Section 3 of such Act is amended by adding at
 13 the end thereof the following new subsection:

14 “(t) ‘Tipped employee’ means any employee engaged
 15 in an occupation in which he customarily and regularly
 16 receives more than \$20 a month in tips.”

17 DEFINITION OF ENTERPRISE

18 SEC. 102. (a) Section 3 (r) of such Act is amended by
 19 adding at the end thereof the following: “For purposes of
 20 this subsection, the activities performed by any person or
 21 persons—

22 “(1) in connection with the operation of a hos-
 23 pital, an institution primarily engaged in the care of the
 24 sick, the aged, the mentally ill or defective who reside
 25 on the premises of such institution, a school for mentally

1 handicapped or gifted children, an elementary or sec-
2 ondary school, or an institution of higher education (re-
3 gardless of whether or not such hospital, institution, or
4 school is public or private or operated for profit or not
5 for profit), or

6 “(2) in connection with the operation of a street,
7 suburban or interurban electric railway, or local trolley
8 or motorbus carrier, if the rates and services of such rail-
9 way or carrier are subject to regulation by a State or
10 local agency (regardless of whether or not such rail-
11 way or carrier is public or private or operated for profit
12 or not for profit),

13 shall be deemed to be activities performed for a business
14 purpose.”

15 (b) Section 3 (d) of such Act is amended by inserting
16 after “of a State” the following: “(except with respect to
17 employees of a State, or a political subdivision thereof, em-
18 ployed (1) in a hospital, institution, or school referred to in
19 the last sentence of subsection (r) of this section, or (2) in
20 the operation of a railway or carrier referred to in such
21 sentence) ”.

22 (c) Section 3 (s) of such Act is amended to read as
23 follows:

24 “(s) ‘Enterprise engaged in commerce or in the pro-

1 duction of goods for commerce' means an enterprise which
2 has employees engaged in commerce or in the production of
3 goods for commerce, including employees handling, selling,
4 or otherwise working on goods that have been moved in or
5 produced for commerce by any person, and which—

6 “(1) during the period February 1, 1967, through
7 January 31, 1969, is an enterprise whose annual gross
8 volume of sales made or business done is not less than
9 \$500,000 (exclusive of excise taxes at the retail level
10 which are separately stated) or is a gasoline service
11 establishment whose annual gross volume of sales is not
12 less than \$250,000 (exclusive of excise taxes at the
13 retail level which are separately stated), and beginning
14 February 1, 1969, is an enterprise whose annual gross
15 volume of sales made or business done is not less than
16 \$250,000 (exclusive of excise taxes at the retail level
17 which are separately stated) ;

18 “(2) is engaged in laundering, cleaning, or re-
19 pairing clothing or fabrics;

20 “(3) is engaged in the business of construction
21 or reconstruction, or both; or

22 “(4) is engaged in the operation of a hospital, an
23 institution primarily engaged in the care of the sick,
24 the aged, the mentally ill or defective who reside on the

premises of such institution, a school for mentally handicapped or gifted children, an elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit).

Any establishment which has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection."

(d) Section 3 of such Act is amended by adding after subsection (u) (added by section 103 (b) of this Act) the following new subsections:

"(v) 'Elementary school' means a day or residential school which provides elementary education, as determined under State law.

"(w) 'Secondary school' means a day or residential school which provides secondary education, as determined under State law."

1 AGRICULTURAL EMPLOYEES

2 SEC. 103. (a) Section 3 (e) of such Act is amended
3 to read as follows:

4 “(e) ‘Employee’ includes any individual employed by
5 an employer, except that such term shall not, for the pur-
6 poses of section 3 (u) include—

7 “(1) any individual employed by an employer en-
8 gaged in agriculture if such individual is the parent,
9 spouse, child, or other member of the employer’s imme-
10 diate family, or

11 “(2) any individual who is employed by an em-
12 ployer engaged in agriculture if such individual (A) is
13 employed as a hand harvest laborer and is paid on a
14 piece rate basis in an operation which has been, and is
15 customarily and generally recognized as having been,
16 paid on a piece rate basis in the region of employment,
17 (B) commutes daily from his permanent residence to the
18 farm on which he is so employed, and (C) has been
19 employed in agriculture less than thirteen weeks during
20 the preceding calendar year.”

21 (b) Section 3 of such Act is further amended by add-

1 ing after subsection (t) (added by section 101 (b) of this
2 Act) the following new subsection:

3 “(u) ‘Man-day’ means any day during any portion of
4 which an employee performs any agricultural labor.”

5 TITLE II—REVISION OF EXEMPTIONS

6 HOTEL, RESTAURANT, AND RECREATIONAL ESTABLISH- 7 MENTS; HOSPITALS AND RELATED INSTITUTIONS

8 SEC. 201. (a) Section 13 (a) (2) of such Act is
9 amended by striking out everything preceding “A ‘retail or
10 service establishment’” and inserting in lieu thereof the
11 following:

12 “(2) any employee employed by any retail or
13 service establishment (except an establishment or em-
14 ployee engaged in laundering, cleaning, or repairing
15 clothing or fabrics or an establishment engaged in the
16 operation of a hospital, institution, or school described
17 in section 3 (s) (4)), if more than 50 per centum of
18 such establishment’s annual dollar volume of sales of
19 goods or services is made within the State in which the
20 establishment is located, and such establishment is not in

1 an enterprise described in section 3 (s) or such establish-
2 ment has an annual dollar volume of sales which is less
3 than \$250,000 (exclusive of excise taxes at the retail
4 level which are separately stated).”

5 (b) (1) Section 13 (b) of such Act is amended by in-
6 serting after paragraph (7) the following new paragraph
7 in lieu of the paragraph repealed by section 211 of this
8 Act:

9 “(8) any employee employed by an establishment
10 which is a hotel, motel, or restaurant; or”.

11 (2) Section 13 (a) of such Act is amended by inserting
12 after paragraph (2) the following new paragraph in lieu of
13 the paragraph repealed by section 202 of this Act:

14 “(3) any employee employed by an establish-
15 ment which is an amusement or recreational establish-
16 ment, if (A) it does not operate for more than seven
17 months in any calendar year, or (B) during the preced-
18 ing calendar year, its average receipts for any six months
19 of such year were not more than $33\frac{1}{3}$ per centum of its
20 average receipts for the other six months of such year;
21 or”.

22 LAUNDRY AND CLEANING ESTABLISHMENTS

23 SEC. 202. Section 13 (a) (3) of such Act is repealed.

AGRICULTURAL EMPLOYEES

SEC. 203. (a) Section 13 (a) (6) of such Act is amended to read as follows:

“(6) any employee employed in agriculture (A) if such employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred man-days of agricultural labor, (B) if such employee is the parent, spouse, child, or other member of his employer’s immediate family, or (C) if such employee (i) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) commutes daily from his permanent residence to the farm on which he is so employed, and (iii) has been employed in agriculture less than thirteen weeks during the preceding calendar year, or (D) if such employee’s wage rate is established by the Secretary of Agriculture under section 301 (c) (1) of the Sugar Act of 1948; or”.

(b) Section 13 (a) (16) of such Act (agricultural employees employed in livestock auctions) is repealed.

1 (c) Section 13 (b) of such Act is amended—

2 (A) by striking out the period at the end of para-
3 graph (11) and inserting in lieu thereof “; or”, and

4 (B) by adding at the end of paragraph (11) the
5 following new paragraphs:

6 “(12) any employee employed in agriculture or in
7 connection with the operation or maintenance of ditches,
8 canals, reservoirs, or waterways, not owned or operated
9 for profit, or operated on a sharecrop basis, and which
10 are used exclusively for supply and storing of water for
11 agricultural purposes; or

12 “(13) any employee with respect to his employ-
13 ment in agriculture by a farmer, notwithstanding other
14 employment of such employee in connection with live-
15 stock auction operations in which such farmer is engaged
16 as an adjunct to the raising of livestock, either on his
17 own account or in conjunction with other farmers, if
18 such employee (A) is primarily employed during his
19 workweek in agriculture by such farmer, and (B) is
20 paid for his employment in connection with such live-
21 stock auction operations at a wage rate not less than
22 that prescribed by section 6 (a) (1) ; or”.

23 AGRICULTURAL PROCESSING EMPLOYEES

24 SEC. 204. (a) Sections 13 (a) (10) (employees en-
25 gaged in handling and processing of agricultural, horticul-

1 tural, and dairy products) ; 13 (a) (17) (country elevator
2 employees) ; 13 (a) (18) (cotton ginning employees) ; and
3 13 (a) (22) (fruit and vegetable transportation employees)
4 of such Act are repealed.

5 (b) Section 13 (b) of such Act is amended by adding
6 after paragraph (13) (added by section 203 (c) of this Act)
7 the following new paragraphs:

8 “(14) any employee employed within the area of
9 production (as defined by the Secretary) by an estab-
10 lishment commonly recognized as a country elevator,
11 including such an establishment which sells products and
12 services used in the operation of a farm, if no more than
13 five employees are employed in the establishment in
14 such operations; or

15 “(15) any employee engaged in ginning of cotton
16 for market, in any place of employment located in a
17 county where cotton is grown in commercial quan-
18 tities; or

19 “(16) any employee engaged (A) in the transpor-
20 tation and preparation for transportation of fruits or
21 vegetables, whether or not performed by the farmer,
22 from the farm to a place of first processing or first mar-
23 keting within the same State, or (B) in transportation,
24 whether or not performed by the farmer, between the
25 farm and any point within the same State of persons

1 employed or to be employed in the harvesting of fruits
2 or vegetables; or”.

3 (c) Subsection (c) of section 7 of such Act is amended
4 to read as follows:

5 “(c) For a period or periods of not more than fourteen
6 workweeks in the aggregate in any calendar year, any em-
7 ployer may employ any employee for a workweek in excess
8 of that specified in subsection (a) without paying the com-
9 pensation for overtime employment prescribed in such sub-
10 section if such employee (1) is employed by such employer
11 in an industry (other than an industry described in subsec-
12 tion (d)) found by the Secretary to be of a seasonal nature,
13 and (2) receives compensation for employment by such
14 employer in excess of ten hours in any workday, or for
15 employment by such employer in excess of forty-eight hours
16 in any workweek, as the case may be, at a rate not less
17 than one and one-half times the regular rate at which he
18 is employed.

19 “(d) For a period or periods of not more than four-
20 teen workweeks in the aggregate in any calendar year,
21 any employer may employ any employee for a workweek
22 in excess of that specified in subsection (a) without paying
23 the compensation for overtime employment prescribed in
24 such subsection, if such employee—

25 “(1) is employed by such employer in an enter-

prise which is in an industry found by the Secretary—

“(A) to be characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of agricultural or horticultural commodities from farms if such industry is engaged in the handling, packing, preparing, storing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, or

“(B) to be of a seasonal nature and engaged in the handling, packing, storing, preparing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, and

“(2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.”

(d) (1) Subsections (d), (e), (f), (g), and (h) of section 7 of such Act are redesignated as subsections (e), (f), (g), (h), and (i), respectively.

(2) Subsections (g) and (h) of such section 7 (as so

1 redesignated by paragraph (1) of this subsection) are each
2 amended by striking out “subsection (d)” and inserting in
3 lieu thereof “subsection (e)”.

4

SMALL NEWSPAPERS

5

SEC. 205. Section 13 (a) (8) of such Act is amended by
6 striking out “where printed and published” and inserting in
7 lieu thereof “where published”.

8

TRANSPORTATION COMPANIES

9 SEC. 206. (a) Section 13 (a) (9) of such Act is re-
10 pealed.

11 (b) (1) Section 13 (a) (12) of such Act is repealed.

12 (2) Section 13 (b) of such Act is amended by adding
13 after paragraph (16) (added by section 204 (b) of this
14 Act) the following new paragraph:

15 “(17) any driver employed by an employer en-
16 gaged in the business of operating taxicabs; or”.

17 (c) Section 13 (b) (7) of such Act is amended to read
18 as follows:

19 “(7) any driver, operator, or conductor employed
20 by an employer engaged in the business of operating
21 a street, suburban or interurban electric railway, or
22 local trolley or motorbus carrier, if the rates and services
23 of such railway or carrier are subject to regulation by a
24 State or local agency; or”.

1 MOTION PICTURE THEATER EMPLOYEES

2 SEC. 207. Section 13 (a) of such Act is amended by
3 inserting after paragraph (8) the following new paragraph
4 in lieu of the paragraph repealed by section 206 (a) of this
5 Act:

6 “(9) any employee employed by an establishment
7 which is a motion picture theater; or”.

8 LOGGING CREWS

9 SEC. 208. Section 13 (a) (15) of such Act is amended
10 by striking out “twelve” and inserting in lieu thereof
11 “eight”.

12 AUTOMOBILE, AIRCRAFT, AND FARM IMPLEMENT SALES

13 ESTABLISHMENTS

14 SEC. 209. (a) Section 13 (a) (19) of such Act is re-
15 pealed.

16 (b) Section 13 (b) of such Act is amended by inserting
17 after paragraph (9) the following new paragraph in lieu
18 of the paragraph repealed by section 212 of this Act:

19 “(10) any salesman, mechanic, or partsman em-
20 ployed by an establishment which is primarily engaged
21 in the business of selling automobiles, trailers, trucks, or
22 farm implements to the ultimate purchaser, and any sales-
23 man, mechanic, or flight personnel employed by a non-

1 manufacturing establishment which is primarily engaged
2 in selling aircraft; or”.

3 FOOD SERVICE EMPLOYEES

4 SEC. 210. (a) Section 13 (a) (20) of such Act is
5 repealed.

6 (b) Section 13 (b) of such Act is amended by adding
7 after paragraph (17) (added by section 206 (b) (2) of this
8 Act) the following new paragraph:

9 “(18) any employee of a retail or service estab-
10 lishment who is employed primarily in connection with
11 the preparation or offering of food or beverages for
12 human consumption either on the premises, or by such
13 services as catering, banquet, box lunch, or curb or
14 counter service, to the public, to employees, or to mem-
15 bers or guests of members of clubs.”

16 GASOLINE SERVICE STATIONS

17 SEC. 211. Section 13 (b) (8) of such Act is repealed.

18 PETROLEUM DISTRIBUTION EMPLOYEES

19 SEC. 212. (a) Section 13 (b) (10) of such Act is re-
20 pealed.

21 (b) Section 7 (b) (3) of such Act is amended to read
22 as follows:

23 “(3) by an independently owned and controlled
24 local enterprise (including an enterprise with more than

1 one bulk storage establishment) engaged in the whole-
2 sale or bulk distribution of petroleum products if—

3 “(A) the annual gross volume of sales of such
4 enterprise is less than \$1,000,000 exclusive of excise
5 taxes,

6 “(B) more than 75 per centum of such enter-
7 prise’s annual dollar volume of sales is made within
8 the State in which such enterprise is located, and

9 “(C) not more than 25 per centum of the
10 annual dollar volume of sales of such enterprise is to
11 customers who are engaged in the bulk distribution
12 of such products for resale,
13 and such employee receives compensation for employ-
14 ment in excess of forty hours in any workweek at a rate
15 not less than one and one-half times the minimum wage
16 rate applicable to him under section 6.”

17 ENIWETOK AND KWAJALEIN ATOLLS AND JOHNSTON

18 ISLAND

19 SEC. 213. Section 13 (f) of such Act is amended by
20 striking out “and the Canal Zone” and inserting in lieu
21 thereof “Eniwetok Atoll; Kwajalein Atoll; Johnston Is-
22 land; and the Canal Zone”.

1 TECHNICAL AND CONFORMING AMENDMENTS

2 SEC. 214. (a) Section 3 (n) of such Act is amended
3 by striking out “, except as used in subsection (s) (1),”.

4 (b) Section 13 (a) of such Act is amended—

5 (1) by redesignating paragraphs (11), (13),
6 (14), (15), and (21) as paragraphs (10), (11),
7 (12), (13), and (14), respectively, and
8 (2) by striking out “; or” at the end of paragraph
9 (14) (as so redesignated in this subsection) and insert-
10 ing in lieu thereof a period.

11 (c) Paragraph (7) of section 13 (a) of such Act is
12 amended by striking out “or order” and inserting in lieu
13 thereof “, order, or certificate”.

14 TITLE III—INCREASE IN MINIMUM WAGE

15 PRESENTLY COVERED EMPLOYEES

16 SEC. 301. (a) Section 6 (a) of such Act is amended by
17 amending that portion of the section preceding paragraph
18 (2) to read as follows:

19 “(a) Every employer shall pay to each of his em-
20 ployees who in any workweek is engaged in commerce or in
21 the production of goods for commerce, or is employed in an
22 enterprise engaged in commerce or in the production of
23 goods for commerce, wages at the following rates:

24 “(1) not less than \$1.40 an hour during the first
25 two years from the effective date of the Fair Labor

1 Standards Amendments of 1966 and not less than \$1.60
2 an hour thereafter, except as otherwise provided in this
3 section;”.

4 (b) Such section is amended by striking out the period
5 at the end of paragraph (3) and inserting a semicolon,
6 and by adding the following new paragraph:

7 “(4) if such employee is employed as a seaman
8 on an American vessel, not less than the rate which will
9 provide to the employee, for the period covered by the
10 wage payment, wages equal to compensation at the
11 hourly rate prescribed by paragraph (1) of this sub-
12 section for all hours during such period when he was
13 actually on duty (including periods aboard ship when
14 the employee was on watch or was, at the direction of
15 a superior officer, performing work or standing by, but
16 not including off-duty periods which are provided pur-
17 suant to the employment agreement) ; or”.

18 AGRICULTURAL EMPLOYEES

19 SEC. 302. Section 6(a) of such Act is amended by
20 adding after paragraph (4) (added by section 301(b) of
21 this Act) the following new paragraph:

22 “(5) if such employee is employed in agriculture,
23 not less than \$1 an hour during the first year from
24 the effective date of the Fair Labor Standards Amend-

1 ments of 1966, not less than \$1.15 an hour during the
2 second year from such date, and not less than \$1.30 an
3 hour thereafter.”

4 NEWLY COVERED EMPLOYEES

5 SEC. 303. Section 6 (b) of such Act is amended to read
6 as follows:

7 “(b) Every employer shall pay to each of his employees
8 (other than an employee to whom subsection (a) (5) ap-
9 plies) who in any workweek is engaged in commerce or in
10 the production of goods for commerce, or is employed in an
11 enterprise engaged in commerce or in the production of
12 goods for commerce, and who in such workweek is brought
13 within the purview of this section by the amendments made
14 to this Act by the Fair Labor Standards Amendments of
15 1966, wages at the following rates:

16 “(1) not less than \$1 an hour during the first
17 year from the effective date of such amendments,

18 “(2) not less than \$1.15 an hour during the second
19 year from such date,

20 “(3) not less than \$1.30 an hour during the third
21 year from such date,

22 “(4) not less than \$1.45 an hour during the fourth
23 year from such date, and

24 “(5) not less than \$1.60 an hour thereafter.”

1 EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

2 SEC. 304. Section 6 (c) of such Act is amended to read
3 as follows:

4 “(c) (1) The rate or rates provided by subsections (a)
5 and (b) of this section shall be superseded in the case of
6 any employee in Puerto Rico or the Virgin Islands only for
7 so long as and insofar as such employee is covered by a wage
8 order heretofore or hereafter issued by the Secretary pur-
9 suant to the recommendations of a special industry committee
10 appointed pursuant to section 5.

11 “(2) In the case of any such employee who is covered
12 by such a wage order and to whom the rate or rates pre-
13 scribed by subsection (a) would otherwise apply, the fol-
14 lowing rates shall apply:

15 “(A) The rate or rates applicable under the most
16 recent wage order issued by the Secretary prior to the
17 effective date of the Fair Labor Standards Amendments
18 of 1966, increased by 12 per centum, unless such rate
19 or rates are superseded by the rate or rates prescribed
20 in a wage order issued by the Secretary pursuant to the
21 recommendations of a review committee appointed under
22 paragraph (C). Such rate or rates shall become effec-
23 tive sixty days after the effective date of the Fair Labor

1 Standards Amendments of 1966 or one year from the
2 effective date of the most recent wage order applicable
3 to such employee theretofore issued by the Secretary
4 pursuant to the recommendations of a special industry
5 committee appointed under section 5, whichever is later.

6 “(B) Beginning one year after the applicable effec-
7 tive date under paragraph (A), not less than the rate
8 or rates prescribed by paragraph (A), increased by
9 an amount equal to 16 per centum of the rate or rates
10 applicable under the most recent wage order issued by
11 the Secretary prior to the effective date of the Fair Labor
12 Standards Amendments of 1966, unless such rate or
13 rates are superseded by the rate or rates prescribed in
14 a wage order issued by the Secretary pursuant to the
15 recommendations of a review committee appointed under
16 paragraph (C).

17 “(C) Any employer, or group of employers, em-
18 ploying a majority of the employees in an industry in
19 Puerto Rico or the Virgin Islands, may apply to the
20 Secretary in writing for the appointment of a review
21 committee to recommend the minimum rate or rates
22 to be paid such employees in lieu of the rate of rates
23 provided by paragraph (A) or (B). Any such appli-
24 cation with respect to any rate or rates provided for
25 under paragraph (A) shall be filed within sixty days

1 following the enactment of the Fair Labor Standards
2 Amendments of 1966 and any such application with
3 respect to any rate or rates provided for under para-
4 graph (B) shall be filed not more than one hundred
5 and twenty days and not less than sixty days prior to
6 the effective date of the applicable rate or rates under
7 paragraph (B). The Secretary shall promptly con-
8 sider such application and may appoint a review com-
9 mittee if he has reasonable cause to believe, on the basis
10 of financial and other information contained in the ap-
11 plication, that compliance with any applicable rate or
12 rates prescribed by paragraph (A) or (B) will sub-
13 stantially curtail employment in such industry. The
14 Secretary's decision upon any such application shall
15 be final. Any wage order issued pursuant to the recom-
16 mendations of a review committee appointed under this
17 paragraph shall take effect on the applicable effective
18 date provided in paragraph (A) or (B).

19 “(D) In the event a wage order has not been issued
20 pursuant to the recommendation of a review committee
21 prior to the applicable effective date under paragraph
22 (A) or (B), the applicable percentage increase pro-
23 vided by any such paragraph shall take effect on the
24 effective date prescribed therein, except with respect to
25 the employees of an employer who filed an application

1 under paragraph (C) and who files with the Secretary
2 an undertaking with a surety or sureties satisfactory to
3 the Secretary for payment to his employees of an amount
4 sufficient to compensate such employees for the dif-
5 ference between the wages they actually receive and the
6 wages to which they are entitled under this subsection.
7 The Secretary shall be empowered to enforce such under-
8 taking and any sums recovered by him shall be held in
9 a special deposit account and shall be paid, on order of
10 the Secretary, directly to the employee or employees
11 affected. Any such sum not paid to an employee be-
12 cause of inability to do so within a period of three years
13 shall be covered into the Treasury of the United States
14 as miscellaneous receipts.

15 “(3) In the case of any such employee to whom sub-
16 section (a) (5) or subsection (b) would otherwise apply,
17 the Secretary shall within sixty days after the effective date
18 of the Fair Labor Standards Amendments of 1966 appoint a
19 special industry committee in accordance with section 5 to
20 recommend the highest minimum wage rate or rates in ac-
21 cordance with the standards prescribed by section 8, but not
22 in excess of the applicable rate provided by subsection (a)
23 (5) or subsection (b), to be applicable to such employee in
24 lieu of the rate or rates prescribed by subsection (a) (5) or
25 subsection (b), as the case may be. The rate or rates recom-

1 mended by the special industry committee shall be effective
2 with respect to such employee upon the effective date of the
3 wage order issued pursuant to such recommendation but not
4 before sixty days after the effective date of the Fair Labor
5 Standards Amendments of 1966.

6 “(4) The provisions of section 5 and section 8, relating
7 to special industry committees, shall be applicable to review
8 committees appointed under this subsection. The appoint-
9 ment of a review committee shall be in addition to and not
10 in lieu of any special industry committee required to be
11 appointed pursuant to the provisions of subsection (a) of
12 section 8, except that no special industry committee shall
13 hold any hearing within one year after a minimum wage
14 rate or rates for such industry shall have been recommended
15 to the Secretary by a review committee to be paid in lieu
16 of the rate or rates provided for under paragraph (A) or
17 (B). The minimum wage rate or rates prescribed by this
18 subsection shall be in effect only for so long as and insofar
19 as such minimum wage rate or rates have not been super-
20 seded by a wage order fixing a higher minimum wage rate
21 or rates (but not in excess of the applicable rate prescribed
22 in subsection (a) or subsection (b)) hereafter issued by the
23 Secretary pursuant to the recommendation of a special indus-
24 try committee.”

1 CONTRACT SERVICES TO FEDERAL GOVERNMENT

2 SEC. 305. Section 6 of such Act is amended by adding
3 at the end thereof the following new subsection:

4 “(e) (1) Notwithstanding the provisions of section 13
5 of this Act (except subsections (a) (1) and (f) thereof),
6 every employer providing any contract services (other than
7 laundering or related cleaning services) under a contract
8 with the United States or any subcontract thereunder shall
9 pay to each of his employees whose rate of pay is not gov-
10 erned by the Service Contract Act of 1965 (Public Law
11 89-286) or to whom subsection (a) (1) of this section is
12 not applicable, wages at rates not less than the rates pro-
13 vided for in subsection (b) of this section.

14 “(2) Notwithstanding the provisions of section 13 of
15 this Act (except subsections (a) (1) and (f) thereof) and
16 the provisions of the Service Contract Act of 1965 (Public
17 Law 89-286), every employer in an establishment provid-
18 ing laundering or related cleaning services to the United
19 States under a contract with the United States or any sub-
20 contract thereunder shall pay to each of his employees in
21 such establishment wages at rates not less than those pre-
22 scribed in subsection (b), except that if more than 50 per
23 centum of the gross annual dollar volume of sales made or
24 business done by such establishment is derived from provid-
25 ing such laundering or related cleaning services under any

1 such contracts or subcontracts, such employer shall pay to
2 each of his employees in such establishment wages at rates
3 not less than those prescribed in subsection (a) (1) of this
4 section.”

5 FEDERAL EMPLOYEES

6 SEC. 306. Section 18 of such Act is amended by insert-
7 ing “(a)” immediately after “SEC. 18.” and by adding at
8 the end thereof the following new subsection:

9 “(b) Notwithstanding any other provision of this Act
10 or any other law, any employee—

11 “(1) described in paragraph (7) of section 202
12 of the Classification Act of 1949 (5 U.S.C. 1082 (7))
13 whose compensation is required to be fixed and adjusted
14 from time to time as nearly as is consistent with the
15 public interest in accordance with prevailing rates, or

16 “(2) employed in a nonappropriated fund instru-
17 mentality under the jurisdiction of the Armed Forces,
18 who performed services during the workweek in a work
19 place within the District of Columbia or a State of the United
20 States, shall have his basic compensation fixed or adjusted
21 at a wage rate which is not less than the appropriate wage
22 rate provided for in section 6 (a) (1) of this Act and shall
23 have his overtime compensation set at an hourly rate not
24 less than the overtime rate provided for in section 7 (a)
25 of this Act.”

1 TITLE IV—APPLICATION OF MAXIMUM HOURS
2 PROVISIONS

3 PRESENTLY AND NEWLY COVERED EMPLOYEES

4 SEC. 401. Section 7 (a) of such Act is amended to read
5 as follows:

6 “(a) (1) Except as otherwise provided in this section,
7 no employer shall employ any of his employees who in any
8 workweek is engaged in commerce or in the production of
9 goods for commerce, or is employed in an enterprise engaged
10 in commerce or in the production of goods for commerce,
11 for a workweek longer than forty hours unless such em-
12 ployee receives compensation for his employment in excess
13 of the hours above specified at a rate not less than one and
14 one-half times the regular rate at which he is employed.

15 “(2) No employer shall employ any of his employees
16 who in any workweek is engaged in commerce or in the
17 production of goods for commerce, or is employed in an
18 enterprise engaged in commerce or in the production of
19 goods for commerce; and who in such workweek is brought
20 within the purview of this subsection by the amendments
21 made to this Act by the Fair Labor Standards Amendments
22 of 1966—

23 “(A) for a workweek longer than forty-four hours
24 during the first year from the effective date of the Fair
25 Labor Standards Amendments of 1966,

1 “(B) for a workweek longer than forty-two hours
2 during the second year from such date, or

3 “(C) for a workweek longer than forty hours after
4 the expiration of the second year from such date,
5 unless such employee receives compensation for his employ-
6 ment in excess of the hours above specified at a rate not less
7 than one and one-half times the regular rate at which he is
8 employed.”

9 COMMISSION SALESMAN

10 SEC. 402. Subsection (i) of section 7 of such Act (as
11 so redesignated by section 204 (d) of this Act) is amended
12 by adding at the end thereof the following new sentence: “In
13 determining the proportion of compensation representing
14 commissions, all earnings resulting from the application of
15 a bona fide commission rate shall be deemed commissions on
16 goods or services without regard to whether the computed
17 commissions exceed the draw or guarantee.”

18 TITLE V—STUDENTS AND MANAGEMENT

19 TRAINEES

20 STUDENTS AND MANAGEMENT TRAINEES

21 SEC. 501. (a) Section 14 of such Act is amended—

22 (1) by inserting “(a)” immediately before “The
23 Secretary of Labor”;

24 (2) by striking out “of messengers” and inserting
25 in lieu thereof “and of messengers”;

1 (3) by striking out “, and of full-time students
2 outside of their school hours in any retail or service
3 establishment: *Provided*, That such employment is not of
4 the type ordinarily given to a full-time employee”; and

5 (4) by adding at the end thereof the following new
6 subsections:

7 “(b) The Secretary, to the extent necessary in order
8 to prevent curtailment of opportunities for employment, shall
9 by regulation or order provide for the employment of full-
10 time students, regardless of age but in compliance with appli-
11 cable child labor laws, on a part-time basis in retail or service
12 establishments (not to exceed twenty hours in any work-
13 week) or on a part-time or a full-time basis in such establish-
14 ments during school vacations, under special certificates
15 issued pursuant to regulations of the Secretary, at a wage rate
16 not less than 85 per centum of the minimum wage applicable
17 under section 6, except that the proportion of student hours
18 of employment to total hours of employment of all employees
19 in any establishment may not exceed (1) such proportion
20 for the corresponding month of the twelve-month period
21 preceding May 1, 1961, (2) in the case of a retail or service
22 establishment whose employees (other than employees en-
23 gaged in commerce or in the production of goods for com-

merce) are covered by this Act for the first time on or after the effective date of the Fair Labor Standards Amendments of 1966, such proportion for the corresponding month of the twelve-month period immediately prior to such date, or (3) in the case of a retail or service establishment coming into existence after May 1, 1961, or a retail or service establishment for which records of student hours worked are not available, a proportion of student hours of employment to total hours of employment of all employees based on the practice during the twelve-month period preceding May 1, 1961, in (A) similar establishments of the same employer in the same general metropolitan area in which the new establishment is located, (B) similar establishments of the same employer in the same or nearby counties if the new establishment is not in a metropolitan area, or (C) other establishments of the same general character operating in the community or the nearest comparable community. Before the Secretary may issue a certificate under this subsection he must find that such employment will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under this subsection.

“(c) The Secretary, to the extent necessary in order to

1 prevent curtailment of opportunities for employment, shall
2 by certificate or order provide for the employment of full-
3 time students, regardless of age but in compliance with
4 applicable child labor laws, on a part-time basis in agricul-
5 ture (not to exceed twenty hours in any workweek) or on a
6 part-time or a full-time basis in agriculture during school
7 vacations, at a wage rate not less than 85 per centum of the
8 minimum wage applicable under section 6. Before the Sec-
9 retary may issue a certificate or order under this subsection
10 he must find that such employment will not create a substan-
11 tial probability of reducing the full-time employment oppor-
12 tunities of persons other than those employed under this
13 subsection.

14 “(d) The Secretary shall by regulation or by order
15 provide that retail or service establishments may employ
16 management trainees, under special certificates issued pur-
17 suant to regulations of the Secretary, without paying such
18 trainees the overtime compensation provided for by section
19 7 for a period which shall not exceed eighteen months, if
20 such trainees are being trained for employment in a bona
21 fide executive or administrative capacity as defined by the
22 Secretary under section 13 (a) (1). In the case of any re-

1 tail or service establishment, no such special certificate shall
2 be in effect—

3 “(1) where there are fifty employees or less in
4 such establishment, with respect to more than one man-
5 agement trainee, or

6 “(2) where there are more than fifty employees
7 in such establishment, with respect to more than a
8 number of such trainees which is equal to 3 per centum
9 of the number of employees in such establishment in
10 excess of fifty (rounded to the next lowest whole num-
11 ber), plus one, or

12 “(3) where such management trainees receive
13 compensation for hours worked over forty in any work-
14 week at a rate less than one and one-half times the
15 minimum wage rate applicable to such employees under
16 section 6, or

17 “(4) where such management trainees are em-
18 ployed for more than forty-eight hours in any workweek.

19 “(e) Nothing in this Act shall require any employer
20 to pay in excess of 75 per centum of the applicable minimum
21 wage prescribed by section 6 to any employee, under the age

1 of twenty-one years, during the first six weeks of full-time
2 employment of such employee's employment career."

3 (b) The center heading for such section 14 is amended
4 to read as follows:

5 "LEARNERS, APPRENTICES, AND HANDICAPPED WORKERS;
6 STUDENTS; AND MANAGEMENT TRAINEES".

7 TITLE VI—STATUTE OF LIMITATIONS; EFFEC-
8 TIVE DATE; AND STUDY

9 STATUTE OF LIMITATIONS

10 SEC. 601. (a) Section 16 (c) of such Act is amended
11 by striking out "two-year statute" and by inserting in lieu
12 thereof "statutes".

13 (b) Section 6 (a) of the Portal-to-Portal Act of 1947
14 (Public Law 49, Eightieth Congress) is amended by insert-
15 ing before the semicolon at the end thereof the follow-
16 ing: " , except that a cause of action arising out of a willful
17 violation may be commenced within three years after the
18 cause of action accrued".

19 EFFECTIVE DATE

20 SEC. 602. Except as otherwise provided in this Act, the
21 amendments made by this Act shall take effect on February
22 1, 1967. On and after the date of the enactment of this Act
23 the Secretary is authorized to promulgate necessary rules,
24 regulations, or orders with regard to the amendments made
25 by this Act.

1 STUDY OF EXCESSIVE OVERTIME

2 SEC. 603. The Secretary of Labor is hereby instructed
3 to commence immediately a complete study of present prac-
4 tices dealing with overtime payments for work in excess
5 of forty hours per week and the extent to which such over-
6 time work impedes the creation of new job opportunities
7 in American industry. The Secretary is further instructed
8 to report to the Congress by July 1, 1967, the findings
9 of such survey with appropriate recommendations.

Passed the House of Representatives May 26, 1966.

Attest:

RALPH R. ROBERTS,

Clerk.

AN ACT

To amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

MAY 27, 1966

Read twice and referred to the Committee on Labor
and Public Welfare

89TH CONGRESS
2D SESSION

H. R. 13712

IN THE SENATE OF THE UNITED STATES

JUNE 16, 1966

Referred to the Committee on Labor and Public Welfare and ordered to be
printed

AMENDMENT

Intended to be proposed by Mr. JAVITS to H.R. 13712, an
Act to amend the Fair Labor Standards Act of 1938 to
extend its protection to additional employees, to raise the
minimum wage, and for other purposes, viz.: On page 10,
between lines 22 and 23, insert the following:

1 (d) Section 13 (c) of such Act is amended to read as
2 follows:

3 “(c) (1) The provisions of section 12 relating to child
4 labor shall not apply to any employee employed in agricul-
5 ture outside of school hours for the school district where
6 such employee is living while he is so employed, if such
7 employee—

8 “(A) is employed by his parents, or by a person

1 standing in the place of his parent, on a farm owned or
2 operated by such parent or person, or

3 “(B) is fourteen years of age or over, or

4 “(C) is twelve years of age or over and is em-
5 ployed on a farm to which he commutes daily within
6 twenty-five miles of his permanent residence, and (i)
7 such employment is with the written consent of his par-
8 ent or person standing in place of his parent, or (ii)
9 his parent or person standing in place of his parent is
10 also employed on the same farm. The Secretary may
11 by regulation prescribe maximum working hours and
12 other conditions for the protection of the health and
13 safety of children employed pursuant to this subpara-
14 graph (C).

15 “(2) No employee below the age of eighteen may be
16 employed in agriculture in an occupation that the Secretary
17 of Labor finds and declares to be particularly hazardous for
18 the employment of children below age eighteen, except where
19 such employee is employed by his parent or by a person
20 standing in the place of his parent on a farm owned or oper-
21 ated by such parent or person.

22 “(3) The provisions of section 12 relating to child labor
23 shall not apply to any child employed as an actor or per-
24 former in motion pictures or theatrical productions, or in
25 radio or television productions.”

H. R. 13712

AMENDMENT

Intended to be proposed by Mr. JAVTS to H.R. 13712, an Act to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

JUNE 16, 1966

Referred to the Committee on Labor and Public
Welfare and ordered to be printed

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

Issued July 18, 1966
For actions of July 15, 1966
89th-2nd; No. 113

CONTENTS

Adjournment.....9	Education.....3	Price support.....1
Agricultural	Food stamp.....1	Reclamation.....5
appropriations.....1	Foreign aid.....8	School lunch.....1
Beef exports.....6	Foreign trade.....10	Transportation.....6
Child nutrition.....7	Labor standards.....4	Water.....2

HIGHLIGHTS: Senate passed agricultural appropriation bill.

SENATE

1. AGRICULTURAL APPROPRIATION BILL, 1967. By a vote of 77-2, passed with amendments this bill, H. R. 14596 (pp. 15093-123). Senate conferees were appointed (p. 15122). House conferees have not yet been appointed. Agreed to an amendment by Sen. Montoya (modified) to increase the appropriation for the food stamp program by \$15 million, making the total appropriation \$140 million (pp. 15111-14). Agreed to an amendment by Sen. Hart to provide \$2.5 million additional for school lunch program for special assistance to needy schools, making the total appropriation \$169,500,000 (pp. 15116-18). Rejected, 53-28,

an amendment by Sen. Brewster to limit to \$50,000, to any one person or entity, price support loans or payments in connection with the Food and Agriculture Act of 1965 (pp. 15093-111).

2. WATER. The Foreign Relations Committee reported without amendment S. J. Res. 167, to enable the U. S. to organize and hold an International Conference on Water for Peace in the U. S. (S. Rept. 1373). p. 15085
Sen. Moss inserted the text of a debate between Canada's Gen. McNaughton, who "opposed export of surplus water to the United States", and himself, "an advocate of the North American Water and Power Alliance". pp. 15143-4
3. EDUCATION. A subcommittee of the Labor and Public Welfare Committee voted to report to the full committee with amendments S. 3046, the proposed Elementary and Secondary Education Act Amendments of 1966. p. D627
4. LABOR STANDARDS. A subcommittee of the Labor and Public Welfare Committee approved for full committee consideration with amendments H. R. 13712, to increase minimum wages and extend such coverage to additional employees. p. D627
5. RECLAMATION. Sen. Kuchel inserted Floyd E. Dominy's, Commissioner of Reclamation, address: "Reclamation Is Conservation". pp. 15126-9
6. TRANSPORTATION. Sen. Bartlett discussed current developments in the field of containerization and inserted articles, "Beef Export By Container A Reality" and Exports of Meat Expected to Rise: New Shipping Developments Create Favorable Climate", pp. 15149-51
7. CHILD NUTRITION. Sen. Proxmire expressed hope that the House will "act quickly" to pass the Ellender child nutrition bill. pp. 15142-3
8. FOREIGN AID. Sen. Lausche submitted two amendments to S. 3584, the foreign aid authorization bill, which he stated "would allow, whenever the President so determines that it is in the national interest, extending the number from 10 to a number above in the case of development loans, and to a number above 40 in the case of technical aid assistance" (p. 15087). This bill was made the unfinished business of the Senate (p. 15154).
H. R. 15750, to amend further the Foreign Assistance Act of 1961, was placed on the calendar. p. 15085
9. ADJOURNED until Mon., July 18. p. 15155

ITEM IN APPENDIX

10. FOREIGN TRADE. Extension of remarks of Rep. Cameron stating that "the economic plight of India must be alleviated", and commended that government's announcement outlining a policy of liberalization of restrictions on imports. pp. A3741-2

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COMMITTEE HEARING JULY 18:

Sale of grain storage facilities to nonprofit agencies, H. Agriculture (Fitzgerald, ASCS, to testify).

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DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

Issued July 29, 1966
For actions of July 28, 1966
89th-2nd; No. 122

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Foreign aid.....11,20	Organization of Congress.2	Watersheds.....26
Foreign trade.....19		Wheat.....7,20,38

HIGHLIGHTS: Senate passed road authorization bill. House committee voted to re-
port child nutrition bill. House subcommittee approved bill to provide check-off
for paid advertising for plums, grapes, and pears.

SENATE

1. ROADS. Passed as reported S. 3155, the road authorization bill, which autho-
rizes \$33 million for forest highways and \$170 million for forest development
roads and trails for each of the fiscal years 1968 and 1969. pp. 16662-75
2. ORGANIZATION OF CONGRESS. Both Houses received from the Joint Committee on the
Organization of Congress a report, "Organization of Congress" (S. Rept. 1414).
pp. 16604, 16787

3. APPROPRIATIONS. Passed with amendments H. R. 15456, the legislative appropriation bill. pp. 16675-7, 16681-9Q Senate conferees were appointed.
4. LABOR STANDARDS. Sen. Javits submitted an amendment to H. R. 13712, the minimum wage bill, which he stated would bar "arbitrary age discrimination in employment." p. 16619
5. PERSONNEL. The Finance Committee voted to report (but did not actually report) with amendments H. R. 15119, the proposed Unemployment Insurance Amendments of 1966. p. D686
6. RECLAMATION. A subcommittee of the Interior and Insular Affairs Committee approved for full committee action S. 553, to consent to the Upper Niobrara River Compact between Wyo. and Nebr.; and S. 2297, giving U. S. district courts jurisdiction over actions brought to determine just compensation for lands acquired by the U. S. for irrigation purposes. pp. D686-7
7. WHEAT. Sen. McGee was added as a cosponsor of S. 3550, to provide for a 25-cent-per-bushel export marketing certificate on wheat. p. 16620
8. INFLATION. Sen. Proxmire inserted a Fortune magazine "review of the current economic situation." pp. 16626
Sen. Tower criticized Secretary Freeman's statement on farm prices and claimed that the "farmer and rancher cannot be blamed for today's higher consumer prices." pp. 16634-35
9. CHILD NUTRITION. Sen. Proxmire commended the amended version of the child nutrition bill reported by the House Committee and urged quick action so that the "uncertainty" of the school milk program can be resolved. p. 16629
10. GOVERNORS' CONFERENCE. Sen. Javits inserted resolutions of the Governors' conference urging coordination of Federal aid programs, expressing support of S. 561, the proposed Intergovernmental Cooperation Act, and urging enactment of legislation "to make certain that agricultural income be adjusted to a level that American farmers are receiving their rightful share of the national income." p. 16629
11. FOREIGN AID. Sen. Ervin inserted an explanation of his vote against the foreign aid authorization bill. pp. 16650-51
Sen. Fulbright expressed concern that "continued expansion of foreign aid and the war in Vietnam will inevitably reduce the...effectiveness of many domestic programs," and inserted supporting information. pp. 16655-62
12. PERSONNEL. Sen. Monroney paid tribute to Charles S. Murphy on the anniversary of "30 years of dedicated service to the Federal Government" and inserted a biographical sketch. pp. 16651-53

HOUSE

13. CHILD NUTRITION. The Education and Labor Committee voted to report (but did not actually report) S. 3467, amended, the child nutrition bill. p. D688
14. TRAFFIC SAFETY. The Interstate and Foreign Commerce Committee reported with an amendment H. R. 13228, the proposed Traffic Safety Act of 1966 (H. Rept. 1776). p. 16787

legislation enacted by any country. We should follow this up by calling an international conference to enlist the other nations in the battle against traffic accidents and establish an international institution to provide for continuing international cooperation in the safety field.

Mr. President, I urge President Johnson to call an International Motor Vehicle Safety Convention.

AMENDMENT TO MINIMUM WAGE BILL BARRING AGE DISCRIMINATION IN HIRING—AMENDMENT

AMENDMENT NO. 714

Mr. JAVITS. Mr. President, on behalf of myself and the Senator from California [Mr. MURPHY], the Senator from Arizona [Mr. FANNIN], the Senator from Vermont [Mr. PROUTY], and the Senator from Michigan [Mr. GRIFFIN], all members of the Senate Labor and Public Welfare Committee, which is presently considering the minimum wage bill, I submit for appropriate reference, an amendment to that bill barring arbitrary age discrimination in employment. The amendment would add a new title to the Fair Labor Standards Act, placing enforcement of the age discrimination ban within the Wage and Hour Division of the Department of Labor, which presently enforces age provisions affecting child labor, subject to judicial review.

A major and scarcely touched area of difficulty is the problem of the unemployed older worker, who faces grave difficulties in finding a new job, in spite of considerable skill and maturity. Here, I believe there is an urgent need, and have repeatedly urged in the Congress speedy and forceful action to remove the two major barriers which the unemployed worker in his middle and older years must overcome:

First. Arbitrary and unjust age limits on hiring, imposed by employers through prejudice and misunderstanding; and

Second. Insufficient skills or education to qualify for entry into the increasingly technological industry of today.

Momentum for positive action on discrimination because of age has been steadily growing. Executive Order 11141 issued on February 12, 1964, has made it public policy to ban discrimination because of age in employment under Federal contract, except upon the basis of a bona fide employment qualification, retirement plan, or statutory requirement. Twenty States and Puerto Rico have adopted laws prohibiting this kind of discrimination. Over half of these laws have been passed since 1960; all but three since 1955. Under these measures, the States have had broad success in reducing age discrimination and expanding job opportunities for older workers. The major hindrance to further progress has been limitation on staff and funds. My own State of New York, has had such a law since 1958, and substantial progress has already been made.

Despite the existence of State laws and last year's Executive order, much more needs to be done. The steps al-

ready taken must be extended to cover the entire Nation, so that age discrimination can be fought universally and effectively. In June 1965 the Congress received a report on age discrimination in employment from the Secretary of Labor as required by section 715 of the Civil Rights Act of 1964, a provision which I sought in the Senate.

The Secretary's report concluded as follows:

There is persistent and widespread use of age limits in hiring that in a great many cases can be attributed only to arbitrary discrimination against older workers on the basis of age and regardless of ability. The use of these age limits continues despite years of effort to reduce this type of discrimination through studies, information and general education undertaken by the Federal Government and many States, as well as by nonprofit and employer and labor organizations.

The possibility of new *non-statutory* means of dealing with such arbitrary discrimination has been explored. That area is barren. [Emphasis in original.]

State experience with statutes prohibiting discrimination in employment on the basis of age indicates that such practice can be reduced by a well-administered and well-enforced statute, coupled with an educational program. It is clear from this experience that an educational program to promote hiring on the basis of individual merit is far more effective when provided for by statute.

The most effective way to accomplish this is to make it an unlawful employment practice under the Fair Labor Standards Act to discriminate unjustly on account of age. Our amendment would give the Administrator of the Wage and Hour Division of the Labor Department authority to enforce prohibitions against arbitrary age discrimination in employment. It would integrate into the Fair Labor Standards machinery enforcement against age discrimination. The Administrator would be made responsible for investigating complaints of age discrimination in employment, and for negotiating or compelling redress where complaints are well founded. This procedure would fully effectuate Secretary Wirtz' recommendation that—

The elimination of arbitrary age limits on employment will proceed much more rapidly if the Federal Government declares, clearly and unequivocally, and implements so far as is practicable, a national policy with respect to hiring on the basis of ability rather than age.

The Secretary's report set forth the scope and complexity of the problem, concluded that it can be solved, and cited the success of State laws against age discrimination in employment. With regard to skills and education, the report called for increase efforts, under the Manpower Development and Training Act and other existing training programs, to upgrade, retrain, and counsel older workers to enable them to adjust successfully to the organization and skills requirements of modern industry.

Expanded training and counseling, however, will avail little unless the other more grievous barrier to employment for older workers—unjust age discrimination

on the part of employers—is stricken down. The imposition of arbitrary age limits on hiring, by which many companies refuse to hire any worker above a certain age—regardless of his often considerable abilities or qualifications—is the most serious, the most wasteful, and the least justifiable aspect of the problem, and is a practice regrettably widespread in this country. In the words of Secretary Wirtz' report:

An unmeasured but significant proportion of the age limitations presently in effect are arbitrary in the sense that they have been established without any determination of their actual relevance to job requirements, and are defended on grounds apparently different from their actual explanation.

Although lack of physical capacity is the most frequently cited reason for rigid age limits, many considerations tend to invalidate the idea that any useful purpose is served by such rigid restrictions. They include: the wide variation of age limits for comparable jobs, the general lack of statistical studies in justification of such limits, and the fact that many responsible employers hire workers for jobs from which they would have been barred by other employers solely because of age.

In a Nation which is more and more oriented toward meeting the needs of the young, we must not neglect the ever-expanding population of older workers who have the capacity to be productive, valuable members of the national economy, but who cannot find a job. They must be given adequate scope for their skills and their experience.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and appropriately referred.

The amendment (No. 714) was referred to the Committee on Labor and Public Welfare.

INCOME TAX TREATMENT OF EXPLORATION EXPENDITURES IN THE CASE OF MINING—AMENDMENTS

AMENDMENT NO. 715

Mr. MORTON. Mr. President, I submit on behalf of myself, the senior Senator from Indiana [Mr. HARTKE], and the Senator from West Virginia [Mr. RANDOLPH], an amendment to H.R. 4665, Calendar No. 1342, relating to the income tax treatment of exploration expenditures in the case of mining, and I ask that it be printed.

It is a brief but significant amendment, Mr. President, because it will give the coal mining industry the same option being extended to all other taxpayers in the mining industry. I include a brief statement discussing the intent and need of the amendment at this point in the RECORD.

PURPOSE OF AMENDMENT

Under previous law, taxpayers in the mining industry can deduct mineral exploration expenditures, up to \$100,000 per year with a limit of \$400,000 over a taxpayer lifetime, without "recapture" of the benefits of the deduction.

In H.R. 4665, as passed by the House of Representatives, taxpayers in the min-

ing industry, other than coal, would be permitted and required to treat all future expenditures in a new manner. They could be deducted without limitation, but the benefit of the deduction would be "recaptured" when mineral production began. This new treatment would have applied even if the taxpayer had not yet used up his \$400,000 deduction under old law. Consequently, it would have helped some taxpayers—those who had already used up the \$400,000—and hurt others—those who had used only part of the \$400,000.

During executive consideration of H.R. 4665, the Senate Finance Committee approved the Smathers amendment in order to avoid hurting some taxpayers. As approved by the committee, the taxpayers are given an option: they can choose the old law if they wish, or they can choose the new law which permits them to deduct without limitation, but with recapture of benefits. However, H.R. 4665, as reported, accords the option to all taxpayers in the mining industry, with the exception of coal. The amendment which I offer with my colleague from Indiana [Mr. HARTKE] would correct this situation.

I would also like to point out that the national leadership organizations of the coal industry, the National Coal Association, and the American Mining Congress, have indicated that their membership, by a numerical majority, preferred coal's exclusion from H.R. 4665, as passed by the House, because it would have hurt some taxpayers and helped others. However, the coal industry has stated that, with adoption of the Smathers amendment, it would prefer to be given the same privileges as those extended to other mining taxpayers.

Adoption of our amendment would correct this inequity and remove what amounts to discrimination against the coal industry. The bill, I might point out, does not affect oil and gas, whose exploration costs are treated in a different manner.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and will lie on the table.

PROVISION FOR AN ADEQUATE SUPPLY OF LEAD AND ZINC—AMENDMENT

AMENDMENT NO. 716

Mr. ANDERSON. Mr. President, I submit an amendment, in the nature of a substitute, intended to be proposed by me to S. 564 which I sponsored earlier in this Congress to provide for equitable treatment of the important lead and zinc industries in the United States. The bill, S. 564, was introduced by me and several of my colleagues and is pending before the Senate Finance Committee. Its purpose was to liberalize the inflexible quota system which was in effect at the time of introduction. This formula embodied in S. 564, as originally introduced, was fair to the consumers, producers, and importers of lead and zinc metals. However, the quota has been canceled by executive action and therefore a new plan for legislation has now been proposed by the leaders in the industry. It

will provide effective import quotas based on current industry conditions.

It is quite obvious that in recent years the economic outlook for the lead-zinc industry in the United States has improved considerably, along with the general economy. Increased consumption has trimmed the excessive metal stocks on hand and thus encouraged our domestic industry to reopen mines, develop and produce new ore resources and expand smelting facilities.

This process, however, is going on all around the world. The present favorable conditions, as history reveals, could change in a short period of time. Very easily the market situation could result in a surplus of supplies, thus driving the price down to a point where our domestic mining industry would be forced to close its mines. That is why I have, along with Representative ASPINALL and others, constantly urged that a sensible plan be devised to provide for an evenness in the market. This kind of stability could encourage economic growth and dependability on the part of the users of these metals, as well as to the producers and those foreign importers who supply a large part of our market.

Several important changes in approach have been made which I believe are fair and reasonable and should go a long way toward meeting the objections previously raised to this type of legislation. I ask unanimous consent to include at this point in the RECORD a summary of the provisions of the new amendment.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF PROVISIONS

1. A five year term is proposed to permit re-evaluation of the program at proper intervals and to serve until a minerals policy for the lead-zinc industry has been enacted.
 2. During the life of the legislation, a quota regulating imports of lead and/or zinc ores and metals could become effective for a term of three years, if the lead and/or zinc stocks of United States primary lead-zinc producers reach levels considered excessive to normal requirements as compared to smelter shipments (an indicator of consumption) of either metal.
 3. If during the term of a lead or zinc import quota, enacted as indicated above, there should occur a shortage of the metal in the United States, again determined by the relative level of producers' metal stocks, the import quota would be canceled.
 4. Specific import quotas would be assigned to countries with an import record in excess of 10% of imports during a current base period determined at the time a quota plan became effective. Countries with a lower level of imports would participate in an "all other country" quota.
 5. Individual lead or zinc manufactured products may be placed under an import quota, if the item is entering United States markets at rates judged to be excessive, during the period that a quota is in effect on ores and metals.
 6. A minimum quota is provided to assure the importer a share of participation in United States markets.
- The plan is simple, fair to producer, consumer and importer alike and would only be in effect when necessary to stabilize the supply-consumption ratio at proper levels.

Mr. ANDERSON. Mr. President, I want to extend my compliments to the

leaders of the industry, particularly the chairman of the Lead-Zinc Committee, Mr. Clark L. Wilson. He has devoted a great deal of time and effort to the enormous task of harmonizing the many and varied views and interests of the various segments of this industry. He has, patiently, continued to do an outstanding, and sometimes little-rewarding job of working out a formula which is fair to all concerned. He has contributed, in my judgment, a great deal to the public interest by his efforts.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and appropriately referred.

The amendment (No. 716) was referred to the Committee on Finance.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTION

Mr. TALMADGE. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Utah [Mr. MOSS] be added as a cosponsor of the bill (S. 3641) to amend the Internal Revenue Code of 1954 to allow teachers to deduct expenses incurred in pursuing courses for academic credit and degrees at institutions of higher education.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, early in the week I introduced S. 3632. At this time, I ask unanimous consent to have added as joint authors and cosponsors of that bill the Senator from Missouri [Mr. SYMINGTON], the Senator from Washington [Mr. JACKSON], the Senator from West Virginia [Mr. BYRD], the Senator from Nevada [Mr. CANNON], the Senator from South Carolina [Mr. THURMOND], the Senator from Texas [Mr. TOWER], the Senator from Iowa [Mr. MILLER], and the Senator from North Carolina [Mr. ERVIN].

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BURDICK. Mr. President, I ask unanimous consent that, at its next printing the name of the Senator from Wyoming [Mr. MCGEE] be added as a cosponsor of the bill (S. 3550) to provide for the issuance by the Secretary of Agriculture of a 25-cent-per-bushel export marketing certificate on wheat for the 1967, 1968, and 1969 crops of wheat.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that at its next printing, the name of the senior Senator from New York [Mr. JAVITS] be added as a cosponsor to Senate Joint Resolution No. 175, designating a National Dairy Farmers Cooperative Week.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOTICE CONCERNING NOMINATION BEFORE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Aug. 16, 1966

14. LABOR STANDARDS. The Labor and Public Welfare Committee voted to report (but did not actually report) with an amendment in the nature of a substitute H. R. 13712, to increase minimum wages and extend such coverage to additional employees. p. D762
15. PERSONNEL; RETIREMENT. The Post Office and Civil Service Committee voted to report (but did not actually report) S. 699, to include periods of reemployment of annuitants under the Civil Service Retirement Act for the purpose of computing annuities of their surviving spouses. p. D762
16. BANKING. The Banking and Currency Committee voted to report (but did not actually report) S. 3158, to strengthen the regulatory and supervisory authority of Federal agencies over insured banks and insured savings and loan associations. p. D761
17. HISTORIC SITES. Sen. Yarborough spoke in favor of his amendment to the road authorization bill which would create a national policy of preserving parklands and historic sites and inserted an article on the subject. pp. 18631-3
18. INTERGOVERNMENTAL RELATIONS. Sen. Muskie discussed plans of the Subcommittee on Intergovernmental Relations to conduct hearings on "the three basic problems in Federal-State-local relations: manpower, management, and money," and inserted statements on the intergovernmental personnel bill. pp. 18636-9
19. BEEF EXPORTS. Sen. Magnuson commended "the progress that has recently been made in establishing markets for U. S. beef in foreign countries." pp. 18639-40
20. SCHOOL MILK. Sen. Proxmire urged early action on the school milk program. p. 18649
21. WATER POLLUTION. Sen. Muskie pointed out difficulties in computing costs of water pollution control but urged adequate Federal funding of control programs. pp. 18649-51
22. POVERTY. Sen. Byrd, W. Va., inserted an article, "Time to Recognize Antipoverty Program as a Flop." pp. 18684-5
23. FORESTS. Sen. Morse commended and inserted a Forest Service-Bureau of Land Management Report, "The Timber Supply and Demand Situation in Western Oregon." pp. 18688-94

ITEMS IN APPENDIX

24. PERSONNEL. Speech in the House by Rep. O'Hara, Mich., supporting the bill to correct inequities with respect to the determination of base pay for Federal employees. p. A4319
25. FOOD PRICES. Extension of remarks of Rep. Roudebush claiming that "a large share of the blame" for higher food prices "rests on the administration." p. A4328
Extension of remarks of Rep. Schmidhauser commending and inserting Secretary Freeman's speech before the New York City Council "to defend the farmers against the charges that they are responsible for the increase in food prices." pp. A4330-1

26. COMMUNITY DEVELOPMENT. Extension of remarks of Rep. Dague criticizing the community development district bill and inserting an article, "How Washington Would Remake the Map of the United States..." pp. A4336-8
27. ROADS. Speech in the House by Rep. Love in support of the road authorization bill. p. A4338

BILLS INTRODUCED

28. FOREIGN TRADE. H. R. 17091 by Rep. Ullman and H. R. 17097 by Rep. Meeds, to promote the domestic and foreign commerce of the United States by modernizing practices of the Federal Government relating to the inspection of persons, merchandise, and conveyances moving into, through, and out of the United States; to Ways and Means Committee.
29. WATER POLLUTION. H. R. 17082 by Rep. Cahill, to amend the Federal Water Pollution Control Act in order to improve and make more effective certain programs pursuant to such act; to Public Works Committee.
30. HOLIDAY. H. R. 17085 by Rep. McCarthy, to provide that Columbus Day shall be a legal holiday for officers and employees of the United States in each State in which such day is designated as a legal State holiday; to Judiciary Committee.
31. VETERINARY. H. R. 17098 by Rep. Multer, to amend the Public Health Service Act to establish the position of Chief Veterinary Officer of the Service and provide for the rank of Assistant Surgeon General for said position; to Interstate and Foreign Commerce Committee.
32. CLEAN AIR. H. R. 17101 by Rep. Roybal, to amend the Clean Air Act so as to authorize grants to air pollution control agencies for maintenance of air pollution control programs in addition to present authority for grants to develop, establish, or improve such programs, make the use of appropriations under the act more flexible by consolidating the appropriation authorizations under the act, and deleting the provision limiting the total of grants for support of air pollution control programs to 20 percent of the total appropriation for any year, extend the duration of the programs authorized by the act; to Interstate and Foreign Commerce Committee.
33. DEFENSE PRODUCTION. S. 3726 by Sen. Javits, to amend section 708 of the Defense Production Act of 1950 to extend the coverage of that section to voluntary agreements or programs for the control of credits; to Banking and Currency Committee. Remarks of author pp. 18599-601
34. FABRICS. S. 3731 by Sen. Neuberger, to strengthen the administration of the Flammable Fabrics Act; to Commerce Committee. Remarks of author pp. 18623-5

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COMMITTEE HEARINGS AUG. 17:

H. Agriculture: Transfer of experiment station to Univ. of Alaska (Starkey, ARS, to testify); clarification of law on overtime inspection services (Johnston, ARS, to testify); meeting times of research advisory committee (Starkey, ARS, to testify); uniform provisions for crop liens and penalties (Fitzgerald, ASCS, to testify); reversionary right to Eden project lands (Wright, SCS, to testify); sale of gravel to railroad (Mangham, ARS, to testify); bread-price increase; watershed projects, REA financing, S. Agriculture; Intergovernmental personnel bill, S. Gov't Operations; Packaging-labeling bill, H. Commerce; Fish protein concentrate, H. Merchant Marine and Fisheries (Mead to answer questions). oOo

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

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HIGHLIGHTS: House received conference report on agricultural appropriation bill. Conferees agreed on road authorization bill. Rural community development bill was postponed at Rep. Cooley's request.

HOUSE

1. AGRICULTURAL APPROPRIATION BILL. Received the conference report on this bill, H. R. 14596 (H. Rept. 1867) (pp. 19471-3). Attached are a copy of the conference report and a table showing the changes agreed upon.
2. ROADS. The conferees agreed to report on S. 3155, the road authorization bill for 1968 and 1969, which includes items for forest roads and trails. p. D795

3. RURAL DEVELOPMENT. At Rep. Cooley's request, S. 2934, the rural community development districts bill, was postponed until "some later date." p. 19483
4. WATER RESOURCES. Received the conference report on S. 3034, to authorize the Interior Department to engage in studies of the feasibility of certain water resource development projects (H. Rept. 1865). pp. 19473-7
The Interior and Insular Affairs Committee reported with amendment S. 2287, to authorize a 5-year hydrologic study and investigation of the Delmarva Peninsula (H. Rept. 1866). p. 19495
The Interior and Insular Affairs Committee voted to report (but did not actually report) H. R. 13508, to direct the Interior Department to cooperate with N. Y. and N. J. on a program to develop, preserve, and restore the Hudson River and its shores and to authorize steps to protect those resources from adverse Federal actions until the States and Congress shall have opportunity to act on the program. p. D794
5. COST OF LIVING. Rep. Ashbrook inserted an article analyzing increases in the cost of living. pp. 19487-8
6. DEFENSE APPROPRIATION BILL. Received the conference report on this bill, H. R. 15941 (H. Rept. 1868). p. 19495
7. HIGHWAY SAFETY. Conferees were appointed on S. 3052, to provide for a coordinated national safety program through financial assistance to the States to accelerate highway traffic safety programs. Senate conferees have been appointed. p. 19471
8. RULES COMMITTEE "granted rules" on H. R. 16559, to authorize sea grant colleges; H. J. Res. 1217, to delete the interest rate limitation on debentures of the Federal Intermediate Credit Banks; and S. 2747, to authorize an agreement with Mexico to solve the Lower Rio Grande salinity problem. pp. D794-5
9. TRANSPORTATION. The conferees agreed to report on S. 3688, the urban mass transit bill. p. D795
10. LEGISLATIVE PROGRAM. The "Daily Digest" states that the bill to establish a Transportation Department will be considered today. p. D794

SENATE

11. LABOR STANDARDS. Made its pending business H. R. 13712, to increase minimum wages and extend such coverage to additional employees. Sen. Javits submitted a "child labor in agriculture" amendment. The Labor and Public Welfare Committee reported this bill with an amendment in the nature of a substitute (S. Rept. 1487). pp. 19446, 19464, 19468-79
12. PEACE CORPS. Passed as reported S. 3418, the Peace Corps authorization bill. pp. 19445-6, 19463-4
13. COMMITTEE BUSINESS. The Interior and Insular Affairs Committee voted to report (but did not actually report) S. 3460, to authorize Interior to enter into contracts for scientific and technological research; S. 3485, to clarify the meaning of "common variety" under the Mineral Law Revision Act; and S. 3504 to increase authorizations for the operation of the civil government of the Trust Territory of the Pacific Islands. p. D793

FAIR LABOR STANDARDS AMENDMENTS OF 1966

AUGUST 23, 1966.—Ordered to be printed

Mr. YARBOROUGH, from the Committee on Labor and Public Welfare,
submitted the following

R E P O R T

together with

SUPPLEMENTAL, INDIVIDUAL AND ADDITIONAL VIEWS

[To accompany H.R. 13712]

The Committee on Labor and Public Welfare, to which was referred the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

The amendment strikes out all after the enacting clause and inserts in lieu thereof a new text which appears in the reported bill in italic type.

BACKGROUND OF LEGISLATION

The Fair Labor Standards Act was enacted in 1938 to meet the economic and social problems of that era. Low wages, long working hours, and high unemployment plagued the Nation, which was then in the midst of an unprecedented depression. The policy of the act, as set forth therein, was to correct and as rapidly as practicable to eliminate labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers.

The Fair Labor Standards Act has proven through the years that its basic concept is sound. Despite the warnings of some critics who predicted the act would produce economic disaster, we have seen our economy emerge stronger than ever. Far from being an impediment to progress, the act has served as a foundation upon which has been built a standard of living for our citizens which is second to none.

It has enabled countless Americans to enjoy a dignity, security, and a general well-being which would not otherwise have been possible.

The "great depression" of the 1930's is now behind us. Gone too, for most Americans, are the substandard wages and sweatshop conditions which were then commonplace. Nevertheless, successful as the act and its past amendments have been in achieving its objectives, large numbers of workers in interstate commerce remain outside the scope of part or all of the act's protections. As noted by Secretary of Labor W. Willard Wirtz in his testimony before the Subcommittee on Labor of the Senate Committee on Labor and Public Welfare:

The Fair Labor Standards Act of 1938 was a commitment to improve living standards by eliminating substandard working conditions in employment subject to Federal authority over interstate commerce. That commitment, incomplete when it was made, has become less complete with the passage of time. The law has not been kept in line with the advancing economy; and some of its guarantees mean less, comparatively, than they did 27 years ago (p. 33, pt. I, of hearings).

It is evident to the committee that long working hours and wages which barely provide subsistence are still a daily way of life for far too many of our citizens. It is in recognition of this that the committee bill would extend the protection of the act to some 7.2 million workers, many of whom are among the lowest paid workers in the country.

At the present time there are over 60 million employed wage and salary workers in the United States. Of this number less than 10 million are public employees—7.2 million State and local employees and 2.3 million Federal employees. There are 47 million workers in private industry of whom 29.6 million are presently covered by the act. Of the 7.2 million newly covered workers, 5.8 million are in private employment and 1.4 million are in public employment.

Estimated number of private nonsupervisory employees covered under the Fair Labor Standards Act of 1938, by industry

[In thousands]

Industry	Total number of employees in private industry	Number of employees covered in private industry	Number of employees in private industry not covered or exempt
Agriculture and fisheries.....	1,882		1,882
Mining.....	559	554	5
Contract construction.....	3,029	2,413	616
Manufacturing.....	15,851	15,207	644
Transportation, communications, utilities.....	3,664	3,474	190
Wholesale trade.....	3,015	2,092	923
Retail trade.....	7,988	2,593	5,395
Finance, insurance, real estate.....	2,515	1,869	646
Services (excluding domestic service).....	6,253	1,391	4,862
Domestic service.....	2,504		2,504
Total.....	47,260	29,593	17,667

NOTE.—These estimates do not include public employment.

There is great need for extending the present coverage of the act to large groups of workers whose earnings today are unjustifiably and disproportionately low. There is a significant correlation between

poverty earnings and exclusion from the protective provisions of the act. Among family heads employed in industries generally covered by the act, only 5 to 10 percent had annual incomes under \$3,000 in 1964. The figure is 6 to 13 percent in industries where there is partial coverage of the act. But in industries where there is little or no coverage, the proportions jumped to 29 and 47 percent, respectively.

It is imperative, if the act is to have real meaning, that the minimum wage provide earnings above the poverty level. It is a shocking fact that demands immediate remedy that 41 percent of all children living in poverty were in families where there is a worker who has a full-time job throughout the year. Full employment, and equal employment opportunity, are now widely endorsed objectives, but to be employed equally to substandard wages is no social achievement at all. The "minimum standard of living necessary for health, efficiency, and general well-being of workers" must be attained. The Fair Labor Standards Amendments of 1966 are intended to achieve this standard of living with all deliberate speed consistent with the policy of the act and the welfare of the American people.

The committee believes that the proposed amendments contained in H.R. 13712 constitute an important contribution to the Nation's war on poverty. Poverty is not restricted to the unemployed alone. Many who are counted among the ranks of the poor are workers who receive less than a living wage. One of the reasons for this is that they are employed in industries outside the protections of the Fair Labor Standards Act. Extending the coverage of the act will do much to relieve the plight of these "working poor."

The President of the United States, Lyndon B. Johnson, has urged the Congress to extend the protections of the act to needy workers. In his message to the Congress of May 18, 1965, the President stated:

Many American workers whose employment is clearly within the reach of this law have never enjoyed its benefits. Unfortunately, these workers are generally in the lowest wage groups and most in need of wage and hour protection. We must extend minimum wage and overtime protection to them.

The bill will carry out this recommendation of the President. In doing so, it will provide millions of American workers with a living wage and a decent standard of living.

PURPOSE OF THE LEGISLATION

The bill will extend the benefits and protection of the act to an estimated 7.2 million workers and will raise the minimum wage for workers now covered to \$1.40 an hour beginning February 1, 1967, and \$1.60 an hour beginning February 1, 1968. The increase in the minimum wage to \$1.60 beginning February 1, 1968, was carefully worked out in the House committee. It represented a compromise between those who wanted \$1.75 per hour minimum at an earlier date and those who opposed such an increase and wanted a later effective date of increase. The overall cost of moving up the effective date of the \$1.60 an hour to February 1, 1968, would be minuscule in an economy such as the United States has today with a gross national product of \$732 billion, but the \$2 billion in adding purchasing power would mean a great deal to the working poor in terms of additional

income and purchasing power. The proposed minimum wage for newly covered workers (other than those employed in agriculture) will be \$1 an hour beginning February 1, 1967; \$1.15 an hour beginning February 1, 1968; \$1.30 an hour beginning February 1, 1969; \$1.45 an hour beginning February 1, 1970; and \$1.60 an hour beginning February 1, 1971. For newly covered agricultural workers the bill provides a minimum wage of \$1 an hour beginning February 1, 1967; \$1.15 an hour beginning February 1, 1968; and \$1.30 an hour beginning February 1, 1969. Thus, the proposed new wage floors will be reached within 2 years for those presently covered by the act and for certain Federal employees and within 5 years for those, other than agricultural workers, who will be newly covered by the act; and within 3 years for newly covered agricultural workers. The bill continues a uniform 40-hour standard workweek for all employees who are presently covered. It also establishes for newly covered employees a standard workweek of 44 hours during the first year, 42 hours during the second year, and 40 hours after the second year.

COMMITTEE CONSIDERATION OF LEGISLATION

The Subcommittee on Labor began public hearings on the bills amending the Fair Labor Standards Act of 1938, as amended, on July 6, 1965. Hearings continued in 1965 for 9 days until July 16 and were resumed in January 1966 for 3 days. Testimony was received from 125 witnesses including Secretary of Labor W. Willard Wirtz and other witnesses from government, labor, industry, and other interested groups. In addition, several hundred statements, letters, and additional written information were submitted and included in the official hearing record.

On July 15, 1966, the subcommittee concluded 14 days of consideration of the House-passed bill, H.R. 13712, in executive session and reported the bill to the full committee. After 8 days of executive consideration, the Committee on Labor and Public Welfare ordered reported to the Senate H.R. 13712 with an amendment in the nature of a substitute.

MAJOR PROVISIONS OF THE LEGISLATION

COVERAGE PROVISIONS

The bill would extend the coverage of the Fair Labor Standards Act to approximately 7.2 million additional workers. This is accomplished without departing from the act's basic coverage concepts: employment in "commerce" or in the "production of goods for commerce." Employees individually engaged in "commerce" or in the "production of goods for commerce," unless specifically exempted, would continue to enjoy the protection of the act. The additional coverage has been secured through two primary approaches. First, certain definitions, most importantly, enterprise engaged in commerce or in the production of goods for commerce, have been redefined. Second, a number of exemptions in the present law have been repealed or modified so as to narrow the act's exclusions.

Proposed extension of minimum wage and overtime protection

Minimum wage protection will be extended to employees in the following:

Retailing, including auto, truck, and farm implement dealerships.

Construction.

Laundrying and drycleaning.

Transit and taxicab systems.

Restaurants and food service establishments.

Logging.

Agriculture and agricultural processing.

Hotels and motels.

Hospitals and related institutions.

Federal Government.

Federal service contract employees.

Overtime protection will be extended to employees in the following:

Retailing, including auto, truck, and farm implement dealerships (excluding salesmen and mechanics).

Construction.

Laundrying and drycleaning.

Taxicab and transit system non-operating employees.

Logging.

Agricultural processing.

Hospitals.

Gasoline service stations.

Federal Government.

Estimated distribution of private nonsupervisory employees not now covered and the number who would be brought under minimum wage protection of the act in 1967 and 1969 by the bill ¹

[In thousands]

Industry	Private non-supervisory employees not covered by the minimum wage provisions of the Federal Labor Standards Act	Employees added to minimum wage coverage			Total employees subject to minimum wage provisions
		1967	1969	Total	
Retail trade.....	3,642	1,155	345	1,500	4,086
Restaurants.....	1,753	300	125	425	432
Hotels and motels.....	549	240	35	275	275
Hospitals and related institutions.....	1,008	1,471	—	² 1,471	² 1,471
Miscellaneous services.....	1,460	20	30	50	349
Laundries.....	505	505	—	505	523
Agriculture.....	1,895	390	—	390	390
Transit systems.....	15	60	5	³ 65	³ 65
Agriculture in the area of production.....	90	90	—	90	90
Taxicabs.....	122	75	25	100	100
Small logging.....	87	37	⁴ 12	49	49
Cotton ginning.....	34	34	—	34	34
Construction.....	583	581	—	581	2,994
Federal Government.....	—	685	—	685	685
All other industries.....	5,924	570	390	⁵ 960	⁵ 25,230
Total.....	17,667	6,213	967	⁶ 7,180	⁶ 36,773

¹ Based on estimated employment in 1964.

² Includes 463,000 employees of State and local government hospitals.

³ Includes 55,000 employees of State and local government transit systems.

⁴ Effective Feb. 1, 1968.

⁵ Includes 170,000 employees of State and local government institutions of higher education.

⁶ Includes 668,000 employees of State and local government agencies.

Proposed increase in the minimum wage

Employees	Hourly rate	Effective date
Presently covered (29,600,000)-----	\$1. 40	Feb. 1, 1967
Newly covered (non-Federal, nonfarm) (6,105,000)-----	1. 60	Feb. 1, 1968
	1. 15	Feb. 1, 1967
	1. 30	Feb. 1, 1968
	1. 45	Feb. 1, 1969
	1. 60	Feb. 1, 1970
Agriculture (390,000)-----	1. 00	Feb. 1, 1971
	1. 15	Feb. 1, 1967
	1. 30	Feb. 1, 1968
	1. 40	Feb. 1, 1969
Federal (685,000)-----	¹ 1. 40	Feb. 1, 1967
Federal Service contract-----	¹ 1. 60	Feb. 1, 1968
	(²)	(²)

¹ Except in Canal Zone where the rate for newly covered applies.

² Same as for newly covered.

Estimated distribution of private and public nonsupervisory employees who would be brought under minimum wage protection of the act by 1969 and number and percent earning less than \$1 an hour

Industry	Total number of employees covered by 1969 (thousands)	Employees earning less than \$1 an hour	
		Number (thousands)	Percent
Retail trade-----	1, 500	64	4
Restaurants ¹ -----	425	45	11
Hotels and motels ¹ -----	275	49	18
Hospitals and related institutions-----	1, 471	237	16
Miscellaneous services-----	50	8	16
Laundries-----	505	111	22
Transit systems-----	65		
Agriculture in the area of production-----	90	14	16
Taxicabs ¹ -----	100	14	14
Small logging-----	49		
Cotton ginning-----	34	5	15
Construction-----	581	17	3
Federal Government-----	² 685		
All other industries-----	960	161	17
Total nonagricultural ³ -----	6, 790	725	11
Agriculture ⁴ -----	390	180	46
Total-----	7, 180	905	13

¹ For tipped employees, includes a 50-percent allowance for tips.

² The \$1.40 rate applies except in the Canal Zone.

³ It is estimated that the increase in the annual wage bill required to raise nonagricultural employees earning less than \$1 an hour to \$1 is 1 percent (\$216,000,000).

⁴ It is estimated that the increase in the annual wage bill required to raise agricultural employees earning less than \$1 an hour to \$1 is 11 percent (\$48,000,000).

Enterprise

Section 3(s) of the act is amended to redefine "enterprise engaged in commerce or in the production of goods for commerce" to mean an enterprise which has employees engaged in commerce or in the production of goods, for commerce, which shall include employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce, if—

(1) During the period February 1, 1967, through January 31, 1969, such enterprise has an annual gross volume of sales made or business done of not less than \$500,000, or is a gasoline service establishment with an annual gross volume of sales of not less than \$250,000;

(2) During the period commencing February 1, 1969, such enterprise has an annual gross volume of sales made or business done of not less than \$250,000;

(3) Such enterprise is engaged in laundering, cleaning, or repairing services;

(4) Such enterprise is engaged in construction or reconstruction; or

(5) Such enterprise is operating a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill, or defective who reside on the premises of such institution, a school for physically or mentally handicapped or gifted children, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit).

Related, even if somewhat different, business activities can frequently be part of the same enterprise. For example, a bank may, either directly or indirectly, engage in real estate and leasing activities incidental to or arising from its financial and investment activities. These activities, having a reasonable connection with banking, would be considered related.

Also, the operations through substantial ownership or control of a number of firms engaged in similar types of business activities constitute, in the committee's view, related activities performed through unified operation or common control within the meaning of the definition of enterprise. The fact that the firms are independently incorporated or physically separate or under the immediate direction of local management, as in *Wirtz v. Hardin*, 16 Wage Hour Cases 722 (N.D. Ala.), is not determinative of this question.

The phrase "business done" has been added to the definition of "enterprise engaged in commerce or in the production of goods for commerce" to reflect more clearly the intended meaning of the economic test of business size expressed in the present act in terms of "annual gross volume of sales." This test, as shown by Senate Report No. 145, 87th Congress, 1st session, pages 5, 38 (and now judicially confirmed by the courts in *Wirtz v. Savannah Bank and Trust Company* (C.A. 5, June 27, 1966) and *Wirtz v. Columbian Mutual Life Insurance Company*, 246 F. Supp. 198), is intended to measure the size of an enterprise for purposes of enterprise coverage in terms of the annual gross volume in dollars (exclusive of specified taxes) of the business transactions which result from activities of the enterprise, regardless of whether such transactions are "sales" in a technical sense.

The intent to measure the "dollar volume of sales or business" including "the gross receipts or gross business" in determining coverage of such an enterprise was expressed in the Senate report above cited at page 38. The addition of the term "business done" to the statutory language should make this intent abundantly plain for the future and remove any possible reason for misapprehension. The annual gross volume of sales made or business done by an enterprise, within the meaning of section 3(s), will thus continue to include both the gross dollar volume of the sales (as defined in sec. 3(k)) which it makes, as measured by the price paid by the purchaser for the property or services sold to him (exclusive of any excise taxes at the retail level which are separately stated), and the gross dollar volume of any other business activity in which the enterprise engages which can be similarly measured on a dollar basis. This would include, for example, such

activity by an enterprise as making loans or renting or leasing property of any kind.

Section 201 of the bill provides that an employee of any retail or service establishment (whether or not such establishment is in a covered enterprise) which has an annual gross volume of business of less than \$250,000 is exempted from coverage by the act, if more than half of the establishment's annual dollar volume is from sales of goods or services made within the State where it is located.

In addition to the amendment to section 3(s) of the act, section 3(r), which defines "enterprise," is amended to make plain the intent to bring under the coverage of the act employees of hospitals and related institutions, schools for physically or mentally handicapped or gifted children, or institutions of higher education, whether or not any of these hospitals, schools, or institutions are public or private or operated for profit or not for profit. Section 3(r) of the act is further amended to cover employees of street, suburban or inter-urban electric railways, or local trolley or motorbus carriers, if the rates and services of these railways or carriers are subject to regulation by a State or local agency, regardless of whether or not such railways or carriers are public or private or operated for profit or not for profit. These enterprises which are not proprietary that is, not operated for profit, are engaged in activities which are in substantial competition with similar activities carried on by enterprises organized for a business purpose. Failure to cover all activities of these enterprises will result in the failure to implement one of the basic purposes of the act, the elimination of conditions which "constitute an unfair method of competition in commerce."

The committee amended the House bill to delete from coverage employees of public and private elementary and secondary schools. By this action, approximately 900,000 employees were removed from coverage of the bill. Coverage for elementary and secondary schools was adopted during House consideration of H.R. 13712 and without the benefit of hearings or prior consideration of the amendment. By exclusion of these employees from coverage under the Senate reported bill, the committee is not passing upon the merits of extending coverage of the act to employees of elementary and secondary schools. It believes that this amendment should be the subject of hearings and further consideration in future amendments to the act. The committee was also concerned about the impact which a possible increase in wages for such employees might have upon local school districts that depend in part upon tax dollars for operating revenues.

Agricultural coverage

H.R. 13712 as passed by the House and reported by the committee extends coverage to approximately 390,000 agricultural workers. The exclusion of farmworkers from minimum wage protection was inequitable and inconsistent with the statement of policy of the act which is to eliminate "labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers."

It was not the intention of the originators of the act to fail to provide protection for farmworkers. In his message to the Congress on May

24, 1937, proposing that a floor be placed under wages, President Roosevelt stated:

Legislation can, I hope, be passed at this session of the Congress further to help those who toil in factory and on farm.

Nevertheless, the exemption for farmworkers was embodied in the original enactment in 1938, and the exemption has remained in the act since that time.

In a report issued in November 1963 by the National Agricultural Advisory Committee entitled, "The Family Farm in American Agriculture," it was stated:

We recommend that minimum wages and improved working conditions, in terms adapted to agricultural production, be extended, by stages, to hired farmworkers on a national basis until comparability with industrial minimums is attained.

The bill amends section 13(a)(6) of the act to extend minimum wage protection to 390,000 agricultural workers. They will remain exempt from the overtime provisions of the law. Generally, only the employees of large farms will be covered. To be covered, an employee must be employed by an employer who used more than 500 man-days of agricultural labor in any calendar quarter of the preceding year. "Man-day" means any day during any portion of which an employee performs any agricultural labor. This new coverage is intended to provide protection to the employees of large agribusiness enterprises. Only 1 percent of all U.S. farms would be covered by the bill. Five hundred man-days is approximately the equivalent of seven employees working full time in a calendar quarter. Therefore, it would generally require that a farm have seven or more full-time employees, a considerable enterprise in farming, before the employees receive minimum wage protection.

The bill provides that certain employees are to be excluded from both the general man-day count and from the coverage of the act. These employees, except those described in subparagraph 3 below, are not included in determining whether an individual farm exceeds the 500-man-day criteria. None of them are covered even though employed by a farm which does meet the criteria. The employees who are so excluded are—

(1) The parent, spouse, child, or other member of an agricultural employer's immediate family; or

(2) An employee who (a) is employed as a hand harvest laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment,

(b) Commutes daily from his permanent residence to the farm on which he is so employed, and (c) has been employed in agriculture less than 13 weeks during the preceding calendar year.

(3) A migrant who is (a) 16 years of age or under and is employed as a hand harvest laborer, (b) is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment (c) is employed on the same farm as his parents,

and (d) is paid the same piece rate as employees over age 16 are paid on the same farm. (Such employees are included in the count for purposes of determining whether the 500 man-days test is met.)

(4) Any employee principally engaged in the range production of livestock.

The committee exempted from the agricultural coverage provision of the bill 10,000 employees who are principally engaged in the range production of livestock. The committee, because of the special circumstances of these employees, believes an exemption is appropriate.

In adopting an exemption for an "employee principally engaged in the range production of livestock," the committee intends to exempt only those employees who are engaged in activities which require constant attendance on a standby basis, such as herding and similar activities where the computation of hours worked would be extremely difficult.

The committee adopted the amendment described in subparagraph (3) after thorough consideration of the effect of agricultural coverage generally and more specifically the coverage of migrant children employed in agriculture. A majority of the committee in adopting this amendment believes that the children of migrants who typically accompany their parents in the harvest are not at this time appropriate persons to whom to apply an hourly minimum wage under the act. The exemption is limited to (1) children 16 years of age or under employed as hand harvest laborers, paid on a piece-rate basis on the same farm as their parent. It also requires that the same piece rate be paid such employees as other employees over age 16 are paid on the same farm. The committee also adopted an amendment to section 13(c) of the act, which would prohibit employment of children below the age of 16 in an occupation in agriculture if the Secretary of Labor finds the occupation to be particularly hazardous (unless such employees are employed by their parents on their parents' farm). This protection for children under 16 employed in agriculture would be in addition to the present provisions prohibiting employment of children in agriculture during school hours, which is retained by this bill. The committee rejected an amendment prohibiting employment of children in agriculture under age 12 and between ages 12 and 14 under certain circumstances. It does intend to study further the employment of children in agriculture to determine what further protection is needed.

An amendment was adopted by the committee to remove the exemption in the House bill of approximately 30,000 agricultural workers whose wage rates are set by the Secretary of Agriculture under section 301(c)(1) of the Sugar Act of 1948. In adopting this amendment, the committee understands that the Secretary of Agriculture would still establish the wage rate of such worker subject to such worker's receiving no less than the applicable minimum wage established by the Fair Labor Standards Act. The committee sees no reason why these agricultural workers should receive less than the minimum wage.

During the consideration of agricultural labor coverage, the committee discussed the issue of who is an employee of the farmer and how to determine whether a person is an independent contractor. Section 3 of the act defines the terms "employ," "employee," and "employer." It is also clear that if a person is an independent contractor and not an employee of the agricultural employer, neither the independent contractor nor his employees would be employees of such

employer. Nor could the man-days worked of such employees be counted toward such agricultural employer. However, such independent contractor may well qualify as an agricultural employer and be subject to the coverage of the act unless otherwise exempted. This same issue was raised during the House debate with regard to the status of certain sharecroppers and tenant farmers. The same tests apply as stated in the House report.

The Supreme Court (in *Rutherford Food Corp. v. McComb*, 331 U.S. 722 (1947)) has made it clear that there is no single rule or test for determining whether an individual is an employee or an independent contractor, but that the "total situation controls." In general an employee, as distinguished from a person who is engaged in a business of his own, is one who "follows the usual path of an employee" and is dependent on the business which he serves. As an aid in assessing the total situation, the Court mentioned some of the characteristics of the two classifications which should be considered. Among those are—

- (1) The extent to which the services rendered are an integral part of the principal's business;
- (2) The permanency of the relationship;
- (3) The opportunities for profit or loss;
- (4) The initiative, judgment, or foresight exercised by the one who performs the services;
- (5) The amount of investments; and
- (6) The degree of control which the principal has in the situation.

The committee fully subscribes to these criteria and to the principle that the total situation in a given case, not just a particular criterion, must be considered in determining whether an individual is an employee or an independent contractor.

Small establishment exemption

Employees of small retail or service establishments (except laundry, cleaning and repair service employees, and employees of hospitals and certain institutions and schools) which have annual dollar volumes of sales of goods or services of less than \$250,000 and which do more than 50 percent of their business within the State in which they are located, are exempted from the minimum wage and overtime provisions of the act. This establishment exemption applies to restaurants, retail food service establishments, hotels, motels, and other retail or service establishments as defined in the act.

Specific categories of employment affected by bill

Specific categories of employment that will be affected by the committee's bill are as follows:

- (1) *Retail trade.*—The broadening of the definition of an enterprise "engaged in commerce or in the production of goods for commerce" contained in section 3(s) of the act and the repeal or modification of certain exemptions in section 13 will result in the extension of coverage of minimum wage and overtime protection to an additional 1.5 million employees (not including restaurant workers) in retail trade. The bill repeals sections 13(a)(19) and 13(a)(20) which provide minimum wage and overtime exemptions to employees of establishments primarily engaged in the business of selling automobiles, trucks, or farm implements and for food service employees in retail establishments. Section 13(b) of the act is amended to provide an overtime exemption for salesmen and mechanics primarily engaged in selling or servicing

automobiles, trailers, trucks, farm equipment, or aircraft if employed by a nonmanufacturing establishment primarily engaged in selling such vehicles to ultimate purchasers. Section 13(b) of the act is further amended to maintain the overtime exemption for food service employees in retail or service establishments.

(2) *Laundries and drycleaning establishments.*—The bill repeals section 13(a)(3) of the act and amends section 3(s) so as to extend coverage to 505,000 employees in laundering and cleaning establishments.

(3) *Restaurants.*—Section 13 is amended to extend minimum wage protection to 425,000 employees of restaurants.

Special provisions are made for employees who receive tips. "Wages" are defined in section 101 of the bill so that the wage paid by the employer to a tipped employee will be deemed to be increased (on account of tips) by an amount determined by the employer, but such amount shall not exceed 50 percent of the applicable minimum wage rate.

A "tipped" employee is defined in the bill as any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips. This is analogous to the reporting requirements for a tipped employee under the provision of the Social Security Act of 1965.

A new employee during his first month of employment would be considered a tipped employee if he were in an occupation in which he customarily and regularly receives more than \$20 a month in tips. Employees commencing employment after the beginning of a calendar month or terminating employment before the end of a calendar month and employees working less than a calendar month because of sickness, vacation or the like would still be considered tipped employees if they were engaged in an occupation in which employees customarily and regularly received more than \$20 a month in tips. The definition of a tipped employee does not require that the \$20 a month must be received during a calendar month. A part-time employee would be considered a tipped employee if he customarily and regularly receives more than \$20 a month in tips. A part-time employee who does not customarily and regularly receive more than \$20 a month in tips would not be considered a tipped employee under the act.

The committee believes that the tip provisions are sufficiently flexible to permit the continuance of existing practices with respect to tips. For example, an employer and his tipped employees may agree that all tips are to be turned over or accounted for to the employer to be treated by him as part of his gross receipts. Where this occurs, the employer must pay the employee the full minimum hourly wage, since for all practical purposes the employee is not receiving tip income. Pooling arrangements may also be entered into whereby employees place their tips into a common pool, and the tips are then redistributed to the employees on some agreed-upon basis. Under such circumstances, the amount distributed back to a tipped employee may be the basis for determining the employer's tip allowance.

The practical application of the provisions may be seen by example. For instance, assuming the applicable minimum hourly wage is \$1, the employer may determine the amount of tips an employee receives but such amount shall not exceed 50 percent of the applicable minimum or 50 cents per hour. The employer is required to pay the employee a minimum hourly wage of \$0.50, assuming the employee

comes under the definition of tipped employee and further assuming that he received \$0.50 or more an hour in tips and has not accounted to the employer for his tips. This 50-percent credit also applies to the minimum hourly wages of \$1.15, \$1.30, \$1.45 and \$1.60 an hour. This means that a maximum of 50 percent of the \$1.60 hourly minimum or \$0.80 an hour may be so credited against the employee's wage when the minimum wage is \$1.60 an hour. The employer must then pay the balance of the applicable minimum rate, in this case \$0.80 an hour unless the employee accounts to the employer for his tips. All this presumes, however, that the employee is receiving at least the maximum tip credit in actual tips.

If the employee is receiving less than the amount credited, the employer is required to pay the balance so that the employee receives at least the minimum wage with the defined combination of wages and tips.

The bill's tip provisions provide enough flexibility to account for a practice as inconsistent as tipping. To further assure fairness, the bill directs a procedure whereby an employee (either himself or acting through his representative) who shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount credited against his wage by the employer shall be deemed to have his cash wages increased by the actual amount of tips.

It should also be noted that at present "wages" include the reasonable cost of board, lodging, and other facilities customarily provided by the employer to his employees. Employee meals are never considered primarily for the benefit or convenience of the employer and thus meals provided to restaurant employees by their employers will be considered part of wages under the provisions of the present law.

(4) *Hotels and motels.*—The bill deletes the minimum wage exemption in section 13 for employees of hotels and motels. This will extend minimum wage protection to 275,000 employees employed in lodging enterprises doing an annual business of at least \$250,000. An overtime exemption is maintained for such employees. Tipped employees of hotels and motels will be treated identically to such employees in restaurants as set forth in (3) above.

(5) *Hospitals and related institutions.*—Employees of hospitals, nursing homes, and homes for the aged are presently exempted from the act under section 13(a)(2)(iii). The bill repeals this exemption and amends section 3 thereby extending coverage to such employees of such enterprises without regard to their annual dollar volume of sales or business. This will provide minimum wage protection for approximately 1,471,000 employees of non-Federal hospitals, nursing homes, and homes for the aged.

The committee adopted an amendment with regard to overtime for employees of hospitals which provides that if, pursuant to an agreement or understanding between the employer and his employee before the performance of the work, the work period is accepted as consisting of a period of 14 consecutive days and the employee is paid at least time and one-half the regular rate for hours worked in excess of 8 per day and 80 in the 14-day work period, the employer will be in compliance with the overtime requirements of the act.

Although the committee adopted this amendment, it does not intend to otherwise change the long-established concept under the act of overtime after 40 hours in any workweek. The committee considered the representation of the hospital association that the prevailing

practice of hospital employees, especially nurses and their assistants, is to work 7 to 8 consecutive days with several days off.

The committee exempted employees of nursing homes (but not of hospitals) from the overtime provisions of the act. Information was presented to the committee that under the provision of the medicare amendments to the Social Security Act nursing homes, unlike hospitals, will not receive "reasonable costs" under titles XVIII and XIX of Public Law 89-97 (medicare). In amending the bill to exempt such employees from overtime protection, the committee clearly intends to study the need of the industry for such an exemption and consider restoring overtime protection to such employees in future amendments to the act.

(6) *Employees engaged in logging operations.*—Section 13(a)(15) of the act is amended to reduce the criterion for minimum wage and overtime exemption from 12 employees to 6 employees. This extends protection to approximately 37,000 employees in 1967 and an additional 12,000 employees in 1968 who work in logging operations.

The committee hearing contains considerable testimony on the question of the 12-man exemption for logging operations contained in the present act. It also considered the issue carefully in executive session. Although the committee believes that protection of the act can be extended to all logging operations involving eight employees after 1967 and six after 1968, it also intends to further study these logging operations to determine whether a further reduction of this exemption is desirable.

(7) *Taxicab companies.*—Section 13(a)(12) of the act is repealed to provide minimum wage protection to 100,000 employees of taxicab companies. Tipped employees of taxicab companies will be treated identically to such employees in restaurants as set forth in (3) above. Section 13(b) is amended to provide an overtime exemption to drivers in such enterprises.

(8) *Agricultural processing in the "area of production," cotton ginning, country elevator employees, and fruit and vegetable transportation employees.*—Section 13(a)(10) is repealed providing, thereby minimum wage protection and overtime protection for part or all of the year to 90,000 employees engaged in certain agricultural processing. Sections 13(a)(17) (country elevator employees), 13(a)(18) (cotton ginning employees), and 13(a)(22) (fruit and vegetable transportation employees) are also repealed, however, they have been added to section 13(b) as new paragraphs (14), (15), and (16) to continue the overtime exemption for these workers. Approximately 34,000 employees engaged in employment in cotton ginning would receive minimum wage protection.

(9) *Automobile, aircraft, farm implement, and trailer sales establishments.*—Section 13(a)(19) of the act is repealed to provide minimum wage protection to employees of retail or service establishments primarily engaged in the business of selling automobiles, trucks, and farm implements. Section 13(b) is amended to provide an overtime exemption for salesmen and mechanics who are primarily engaged in selling or servicing automobiles, trailers, trucks, farm implements, or aircraft. The employer of such salesmen and mechanics must be (1) an establishment which is primarily engaged in the business of selling the named products; (2) a nonmanufacturing establishment; and (3) an establishment primarily engaged in selling to ultimate purchasers.

The committee narrowed this exemption from the provisions in the House bill to lessen the competitive disadvantage of the wholesalers distributors who have had no exemption from either minimum wage or overtime under the act. This was done by eliminating partsmen from the overtime exemption provided in the House bill.

(10) *Gasoline service stations.*—The bill repeals the overtime exemption in section 13(b)(8) thus extending overtime protection to 87,000 employees of gasoline service stations.

(11) *Transit systems.*—Section 13(a)(9) of the act is repealed and sections 3(d), 3(r), and 13(b)(7) are amended so as to extend minimum wage and overtime protection to certain employees of street, suburban, or interurban electric railways, or local trolley or motorbus carriers. Minimum wage protection would be extended to some 65,000 such employees.

The committee retained, but narrowed, the House amendment providing an overtime exemption to any driver, operator, or conductor employed by such transit companies. It limited the exemption to an employer whose annual gross volume of sales made or business done is less than \$1 million (exclusive of excise taxes at the retail level which are separately stated). The committee believed some consideration should be afforded the smaller transit companies, many of which are in desperate financial condition. In the experience of some members of the committee, these companies are generally away from metropolitan areas in municipalities which have insufficient tax base to maintain municipally operated transit system.

(12) *Clarification and consolidation of exemptions relating to seasonal industries and the handling and processing of farm products.*—The overtime exemptions provided for in sections 7(b)(3) and 7(c) of the present act have been amended and as amended placed in the act as new sections 7(c) and 7(d). The new section 7(c) provides for the continuation of a 14-week overtime exemption for seasonal industries, and it will require compensation for hours worked in excess of 10 in any workday or 52 in any workweek at least 1½ times the regular rate of pay. This new section is meant to apply to those industries found to be engaged in the handling, extracting, or processing of materials during a season or seasons occurring in a regularly, annually recurring part or parts of the year not substantially greater than 6 months, and which cease production, apart from work such as maintenance, repair, clerical, and saleswork, in the remainder of the year because of the fact that, owing to climate or other natural conditions, the materials are not available in the remainder of the year in the form in which such materials are handled, extracted, or processed. An example is the excavating of peat material in northern climates. In the case of agricultural or horticultural processing the present seasonal industry regulations and interpretations will be continued in effect.

The new section 7(d) provides for a 14-week overtime exemption for processing of perishable agricultural or horticultural commodities in their raw or natural state, compensation for hours worked in excess of 10 in any workday or 48 in any workweek must be at least 1½ times the regular rate of pay. The exemption is strictly limited by the requirement that it apply only when the agricultural or horticultural commodities being processed are perishable and in their raw or natural state. Perishable refers to commodities subject to deterioration or spoilage under ordinary circumstances unless some affirmative action is taken within a short time to preserve them from spoilage or decay.

It should also be noted that the commodity must be in its raw or natural state; that is, in the form in which it is customarily harvested. When an intervening operation such as freezing changes this condition in significant respects, the commodity is no longer in its raw or natural state. If an employer qualifies for an exemption under both sections 7(c) and 7(d), each exemption is limited to 10 weeks, making 20 weeks the maximum aggregate period of exemption available to an employer under these sections.

MINIMUM WAGE PROVISIONS

Minimum wage raise for presently covered

Section 6(a) of the act is amended to provide for an increase in the minimum hourly wage to \$1.40 beginning February 1, 1967, and \$1.60 beginning February 1, 1968, for employees covered by the minimum wage provisions of the Fair Labor Standards Act of 1938, as amended, prior to the 1966 amendments. This is an increase in the annual wage bill for presently covered employees of 0.5 percent in 1967 and 1.1 percent in 1968.

There are 29.6 million workers who are presently covered by the act and who would be affected by this increase. The annual wage bill for these workers is presently \$145 billion.

Estimated number and percent of nonsupervisory employees presently covered by the Fair Labor Standards Act earning less than specified hourly rates and percent increase in wage bill required to raise employees earning less than those rates to those rates

Specified rate	Estimated number of employees earning less than specified rates on effective date		Estimated annual wage bill increase on effective date	
	Number (thousands)	Percent	Amount (millions)	Percent
\$1.40.....	3,794	12	\$804	0.5
\$1.60.....	5,887	18	1,958	1.1

Minimum wage for newly covered employees (excluding agricultural and Federal employees)

Section 6(b) of the act is amended to provide for a gradually escalated increase in the minimum wage from \$1 per hour beginning February 1, 1967, to \$1.15 per hour beginning February 1, 1968; \$1.30 per hour beginning February 1, 1969; \$1.45 per hour beginning February 1, 1970; and \$1.60 per hour beginning February 1, 1971, for the 6,105,000 employees brought under the minimum wage provisions (other than agricultural workers employed on a farm and Federal employees) for the first time by the 1966 amendments.

Estimated number of nonsupervisory workers brought under coverage of the Fair Labor Standards Act under the provisions of H.R. 13712 who presently earn less than \$1 an hour and estimated annual wage bill cost of increasing their minimum hourly rates to \$1 an hour

Category	Employees earning less than \$1 an hour		Amount of increase to \$1 an hour	
	Number (thousands)	Percent	Amount (millions)	Percent
Nonagricultural employees.....	725	11	\$216	1.0

NOTE.—Coverage estimates relate to scope of coverage in 1969; they do not reflect estimates of employees of employers providing contract services for the U.S. Government.

Will this increase in the minimum wage result in unemployment? This perennial specter was raised once again during the 1965 hearings by opponents of the Federal wage and hour law despite the 27-year record of the act. Once again, economic theory was recited to show that marginal workers would lose their positions if employers were compelled to pay a living wage. Subordinating theory, the committee turned to the record of economic growth and high employment in our Nation.

The committee considered the problem of the employment of teenagers and found that low wages are not a function of age, but of industry, area, and type of employment. For example, southern sawmill workers are relatively low-wage employees while auto workers are relatively high-wage employees, regardless of age.

Most economists agree that the degree of impact of a change in the minimum wage upon the economy depends upon two important factors. These are (1) the magnitude of the change, and (2) the state of general business activity at the time the change goes into effect.

With regard to the first point, this report has already pointed out the gradual increase that the bill proposes and the small increment to the annual wage bills of the affected employers.

With respect to the second point, the state of general business activity is optimal in terms of raising the minimum wage. The average annual rate of increase in the real volume of gross national product from 1948 through 1964 is 3.7 percent, from 1960 through 1964 it is more than 4.3 percent. The gross national product has increased from \$257.6 billion in 1948 to \$503.8 billion in 1960 to \$681.2 billion in 1965. The seasonally adjusted quarterly total at annual rates for the second quarter for 1966 is \$732.3 billion. Corporate profits before taxes have increased from \$35.2 billion in 1948 to \$50.3 billion in 1961, and \$75.7 billion in 1965. Income of unincorporated enterprises has increased from \$22.7 billion in 1948 to \$35.6 billion in 1961, and \$40.7 billion in 1965.

These trends are continuing as is seen by the seasonally adjusted quarterly totals of national income at annual rates. Corporate profits before taxes and proprietors' income increased in 1964 and 1965 and the first two quarters in 1966. The annual rate of corporate profits before taxes increased from \$65.8 billion to \$82.9 billion during this period and the annual rate of proprietors' income increased from \$51.3 billion to \$57.9 billion. These trends indicate that the

adjustment to the economic impact of this legislation should be a relatively easy one for American businesses to make.

The committee has given careful consideration to possible inflationary effects of both the extension of coverage and the increase in the minimum wage and is convinced that the increases in the wage bill will not result in additional inflationary pressures. The committee placed considerable weight upon the letter from the Council of Economic Advisers which was made available to the House upon passage of H.R. 13712. Pertinent excerpts of that letter are set forth:

The President's Council of Economic Advisers believes that the enactment of H.R. 13712 will benefit the welfare of the Nation. The enactment of the bill will represent a major step in the process of eliminating substandard wages and working conditions, without imposing significant or abrupt cost increases on employers. Thus, the content of H.R. 13712 reconciles the goals of our social policy with the vital objectives of noninflationary prosperity for the American economy.

Providing the protection of the minimum wage to the American worker has been an important element in our national policy for almost 30 years. Underlying this policy has been the recognition that some segments of our labor markets work imperfectly and that many workers are at a disadvantage in bargaining with their employers. But in recent years, the protection has applied to a smaller proportion of private nonsupervisory workers than was the case in 1938, when the Fair Labor Standards Act was passed. *Moreover, the level of the minimum wage has not kept pace with our economic advances. The enactment of H.R. 13712 will rectify these developments.* The extension of the coverage of the Fair Labor Standards Act will bring for the first time the protection of the minimum wage to about 7 million workers in services, trade, and agriculture. And the increase in the minimum for those already covered by the FLSA will make an important contribution toward the elimination of labor conditions that are inconsistent with the rising standards of earnings that characterize the majority of the American labor force.

An important feature of H.R. 13712 is that its enactment will not hamper our policy designed to preserve stability of costs and prices. First, the provisions of the bill will become effective in two stages—February 1967 and February 1968; the timing makes possible a gradual adjustment without causing disruptive cost pressures.

Secondly, the minimum wage for the newly covered worker begins with a very modest figure of \$1 and rises gradually over a period of 4 years.

The minimum wage increase proposed by H.R. 13712 for those already covered by the FLSA reflects appropriate concern for the standards of *noninflationary behavior of wages.* As you know, the Council's wage guidepost provides for a specific exception in those cases "where wages are particularly low—that is, near the bottom of the economy's wage scales." The wages of those actually affected by minimum wage protec-

tion obviously fall into this category of exceptions to the guidepost, and therefore should move up at a more rapid pace than the economy's productivity trend. Only then can our least advantaged workers move closer to the average standards of prosperity enjoyed by the Nation's labor force. When one considers the timespan since the last increase in the minimum wage in 1963 and the timing of the increases scheduled by H.R. 13712, the rate of increase appears entirely reasonable for this particular type of exception to the guideposts.

In view of all these factors, the enactment of H.R. 13712 is essential and will make an important contribution to social and economic welfare.

Sincerely,

ARTHUR M. OKUN,
Acting Chairman.

Agricultural minimum wage

The wages paid many farmworkers are far below the minimum wage standards established by the act. The minimum wage for covered agricultural workers will be \$1 an hour beginning February 1, 1967; \$1.15 an hour beginning February 1, 1968; and \$1.30 an hour beginning February 1, 1969. Room, board, and other facilities customarily furnished employees by employers are "wages" according to their fair value or reasonable cost as provided for in section 3(m) of the act. In the case of hand harvest workers paid on a piece rate basis, the employer will be considered as complying with the act if the hourly average of the aggregate earnings of all such workers during any workweek exceeds the minimum hourly wage. However, in no event may any individual worker be paid less than 75 percent of the applicable minimum wage.

The committee is fully aware of its responsibility in extending the minimum wage standards of the Fair Labor Standards Act to agricultural employment for the first time. The initial rate established for farmworkers is the same rate set for all newly covered workers—\$1 an hour in February 1967. The bill further provides that the increases in the minimum wage for farmworkers will parallel the increases provided for newly covered nonfarmworkers—in February 1968, to \$1.15; and in February 1969, to \$1.30. While the committee has provided for two additional increases for nonfarm newly covered workers so that all nonfarmworkers will be required to be paid at least \$1.60 by February 1969, no schedule of escalation has been included to raise farmworkers to the Federal minimum wage of \$1.60. It is the intention of this committee that all workers under the act be subject to a single minimum wage. The committee action in limiting the pattern of escalation for agriculture at this time to \$1.30 in February 1969 is to insure that there be a careful evaluation of the effects of applying a minimum wage to agriculture. The committee expects that agriculture will adjust without adverse effects as have other industries under the act and that additional increases will be provided in the future.

A 1965 survey of 1.4 million hired farmworkers indicated that 70 percent earned less than \$1.25 an hour; 50 percent earned less than \$1 an hour; and 34 percent earned less than 75 cents an hour. Average hourly earnings in agriculture were \$1.01 an hour on July 1, 1966, in the United States. In some States the average falls below 60 cents an hour and there are reports of wages of 30 cents an hour. About

2.1 million persons did farm wage work only and about 1.3 million were employed at both farm and nonfarm wage work in 1964. Those workers who did farm wage work only averaged about 100 days of farm wage employment and earned \$689 during the year. Workers employed at both farm and nonfarm wage work did an average of 98 days of nonfarm wage work and 49 days of farm wage work and earned total wages of \$1,379. There were 2.5 million households in the United States that contained at least 1 person who did farmwork for wages in 1964. Over half of these households had annual income below \$3,000.

The two top classes of farms (class I equals \$40,000-plus and class II equals \$20,000 to \$39,999, total value of farm products sold commercially) include only 9 percent of all farms, but they produce 50 percent of all farm output. These two top classes of farms pay out more than 70 percent of the total annual farm wage bill. In fact, class I farms alone pay out more than half of the annual commercial farm wage bill. Very recent sample studies indicate that this concentration of agricultural production and hired labor on large farms has been increasing. Such cost increases, focused primarily upon the largest agri-business enterprises who tend to be the price leaders, would tend to create a more favorable competitive situation for family farm operators. The imputed wage for the family farm operator and his family would no longer be so drastically undermined by the tragic wages of workers on the largest farms.

Between 1950 and 1960 output per agricultural man-hour increased 69 percent compared with 23 percent in nonagricultural employment. From 1960 to 1964, the output per man-hour in agriculture increased 23 percent compared with 13 percent in nonagricultural industries. The labor of 1 farmworker supplied the farm products needs of 11 persons in 1940, 15 persons in 1950, 26 persons in 1960, and 33 persons in 1964. This has been accomplished through the use of improving farming techniques. Mechanical harvesting has made enormous strides and use of fertilizers and other chemical agents has grown rapidly. Despite this gain in productivity, wages of farmworkers have lagged far behind those of workers in nonagricultural industries. Not only have farm labor wages lagged behind those of other workers, but a widening of the gap between agricultural and nonagricultural wages, has in fact, occurred despite the fact that output per man-hour in agriculture was 2.7 times as great in 1964 as in 1947, while in non-agricultural industries it was 1.6 times as great.

The policy of the Fair Labor Standards Act is to provide a wage which will enable a worker to maintain a decent standard of living. If prices were to rise equally or faster than the rise in wages, the real earnings of workers would remain stable or decline. If the price of farm products were to rise more than wages as a result of the coverage of farmworkers, the intent of the legislation would be negated. Thus, the committee looked at the relation of the cost of field labor to the price of farm products to the consumer. The conclusion is clear. Field labor is a very small percentage of costs to the consumer. The cost of bringing seasonal agricultural wages up to the level of about \$1.25 an hour is approximately equal to 1 cent per unit for most vegetables and fruits—per pound or per dozen or per head or whatever the ordinary unit may be. If retail prices go up more than that and if the increase is blamed on rising labor costs in the field, the American

housewife should demand a complete and immediate congressional inquiry.

Puerto Rico and the Virgin Islands

As the minimum wage is increased for the mainland, the minimum wage orders for Puerto Rico and the Virgin Islands will be increased proportionately for those persons covered by the act prior to the 1966 amendments. For example, where a minimum rate of 75 cents an hour is provided for in Puerto Rico, the rate will increase by 12 percent of this rate beginning 60 days after February 1, 1967, or 1 year after the effective date of the most recent applicable wage order, whichever is later. Effective 1 year after such date, the increases will be 16 percent of the rate applicable on February 1, 1967. This would, in the example cited, require an increase of 9 cents the first year and 12 cents the second year, resulting in a wage rate of \$0.96 after February 1, 1968.

The bill contains provisions to assure that the increase in minimum wage rates will not adversely affect employment. It provides for the appointment of review committees, under conditions spelled out below, to consider the effects of percentage increases in particular industries and to recommend to the Secretary whether such increases should be permitted to go into effect as prescribed in the bill or whether smaller increases should be prescribed.

In view of the continued successful economic development of Puerto Rico and the Virgin Islands in the last few years, it is the committee's expectation that the review committee procedure will be invoked with care and only in cases in which a clear need is shown.

It is the committee's intention that review committees will not be appointed by the Secretary of Labor unless he has reason to believe that the full percentage increase in the minimum wage would result in a substantial reduction of employment in the industry. It is the committee's understanding that a decision whether or not to appoint a review committee in a particular case is a discretionary matter.

The appointment of a review committee, of course, does not in and of itself decide the question whether relief should be granted. That is a separate question to be determined by the review committee itself. Nor is the Secretary's decision to appoint a review committee prima facie evidence of a need for relief. The committee is to decide the question before it without presumptions in any direction. Such decision is to be embodied in a report to the Secretary containing its findings of fact and recommendations as to minimum wages in accordance with the standards set forth in sections 5 and 8 of the act.

The committee contemplates that the Secretary will avoid unnecessary delay and that all review committee questions will be decided quickly and expeditiously.

The minimum wage rates for employees (including agricultural employees) in Puerto Rico and the Virgin Islands who would be brought under the act by the amendments made by the bill would be set by the Secretary of Labor upon the basis of recommendations of special industry committees appointed by the Secretary in accordance with the present provisions of sections 5 and 8 of the act. The goal of such committees is "to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed" for newly covered mainland employees by the act. This provision follows the procedure adopted in

1961 for setting the minimum wage rates for employees in Puerto Rico and the Virgin Islands brought under the act at that time.

Federal employees

Section 306 of the bill amends section 18 of the act to provide that certain Federal employees whose compensation is required to be fixed and adjusted in accordance with prevailing rates and employees in nonappropriated fund instrumentalities under the jurisdiction of the Armed Forces shall receive not less than the appropriate rate provided for in section 6(a)(1) of the act (except in the Canal Zone where the 6(b) rate will apply) and shall receive compensation for hours worked in excess of 40 in any workweek at an hourly rate not less than 1½ times such employee's regular rate of pay.

There are approximately 685,000 employees in such categories of employment. This provision has been added to the act to affirm that no employee of the Federal Government, or of an instrumentality under the jurisdiction of the Federal Government, should receive compensation at rates less than those prescribed by the Federal act for private employment.

MAXIMUM HOURS PROVISIONS

The most significant aspect of the maximum hours provisions of the bill is that it maintains the rate of overtime compensation for hours worked in excess of the statutory maximum in any workweek at not less than 1½ times the regular rate of pay.

The rate of time and one-half the regular rate of pay is continued for presently covered workers for hours worked in excess of 40 in any workweek.

For employees newly protected by the overtime provisions of the act (including such newly protected agricultural processing employees), overtime protection is phased in over a 2-year period. Beginning February 1, 1967, compensation for hours worked in excess of 44 in any workweek must be at not less than 1½ times the regular rate of pay. The maximum workweek will be 42 hours beginning February 1, 1968, and conform to the present 40-hour workweek beginning February 1, 1969.

Approximately 5 million employees will be protected by the overtime provisions of the act for the first time. The committee believes that new jobs will become available as the excessive hours worked by present employees are reduced. Because so many of these jobs require a minimum of skill, training, or education, the opportunities that will be created for the long-term unemployed will be one of the major contributions of this legislation.

After careful consideration, the committee approved an amendment to the act which authorizes hospitals to use a work period of 14 consecutive days for the purpose of computing overtime. The committee believes that the act's present requirement that overtime be computed on the basis of a 7-day workweek is sound and should be continued. However, the committee found that it is a practice among some hospitals to use a 2-week period as their regular work period. In order not to disrupt this practice, the committee has, in section 403 of the bill, provided for the use of the 14-day work period where employees of hospitals have reached an agreement or understanding with their employers concerning the use of such a work period. These

employees, however, must be paid time and one-half their regular rate of pay for hours worked over 8 in a workday or over 80 in the 14-day work period.

OTHER PROVISIONS

Handicapped workers

Under section 14 of the act, the Secretary of Labor is authorized, to the extent necessary in order to prevent curtailment of opportunities for employment, to issue special certificates for the employment of handicapped workers at wages lower than the minimum wage applicable under section 6 of the act. Section 501 amends section 14 to require operators of sheltered workshops to pay their handicapped employees wages commensurate with wages paid nonhandicapped workers in the vicinity for essentially the same type, quantity, and quality of work, but not less than wages specified in special certificates issued to the workshops. Effective January 1, 1967, wages under these certificates may not be lower than 50 percent of the applicable statutory minimum. Such wages may not be less than 75 percent of the statutory minimum wage beginning January 1, 1968, and not less than the full statutory minimum beginning January 1, 1969. In instances where handicapped workers are engaged in training or evaluation programs with their work being incidental to the training or evaluation programs, and in circumstances where the individual is multihandicapped or so severely handicapped that he cannot engage in competitive employment, the Secretary may, by regulation, issue special certificates providing for wages at rates less than the applicable statutory minimum in proportion to the handicapped workers productivity.

The bill requires the Secretary of Labor to establish a new classification called work activity centers, which would be designed for workers so physically or mentally handicapped that their productive capacity has been determined to be inconsequential by the State agency administering or supervising the administration of vocational rehabilitation services. The Secretary of Labor is required to conduct a study by January 1, 1968, to establish a formula for determining fair compensation for workers in this particular program. Pending completion of the study, the Secretary may approve special certificates for wages less than the minimum applicable under section 6, or under the amended section 14. The committee intends that work activity centers should consist of custodial activities or activities where the focus is on teaching the basic skills of living. This would not exclude any purposeful activity so long as work or production is not the main purpose.

The committee believes this amendment serves the purpose of improving the economic circumstances of handicapped workers, speeding their movement into fully productive private employment, and assuring that such workers are not exploited through low wages. At the same time, the proposal retains a very necessary flexibility which permits the employment of seriously handicapped workers at wage rates in proportion to their productivity. The amendment does not change present regulations issued by the Secretary which permit the employment of handicapped workers at special minimum wages outside of sheltered workshops.

The Secretary of Labor is also required to make a study and to report to Congress by July 1, 1967, on wage payments to all handi-

capped clients of sheltered workshops and of the feasibility of raising existing wage standards in such workshops.

Study of excessive overtime

The committee has heard strong and persuasive arguments from the administration and from other witnesses that the present overtime rate under the Fair Labor Standards Act has not been a deterrent to excessively long hours. There has been considerable evidence in the testimony that many employers under the act have found that the payment of time and one-half an employee's regular rate of pay for overtime hours was less costly than hiring new employees and that excessively long hours have become a regular method of operation in many industries.

The Department of Labor has developed considerable data on overtime being worked. These data are now available to the committee. In requesting a study of excessive hours, the committee is not looking for more current general information on hours worked. The committee expects that the study of excessive overtime which the Secretary will send to the Congress will enable the Congress to make a judgment as to whether an increase in the penalty rate for overtime under the Fair Labor Standards Act will curtail long workweeks and create additional jobs. In order to make this judgment the committee needs information which is closely tied to the overtime standards of the Fair Labor Standards Act.

The committee is interested in evaluating the adequacy of the present overtime standard under the Fair Labor Standards Act. Of special interest to the committee is detailed information on the extent of excessively long hours in activities to which the overtime standard of the Fair Labor Standards Act applies—the requirement that 1½ times the regular rate of pay be paid for all hours over 40 in a week. A comparison of hours worked in “covered” activities with hours worked in activities which are presently exempt from the overtime standard will assist the Congress in determining whether the overtime standard is an effective deterrent to long hours of work. Another aspect of this complicated problem involves an appraisal of the extent to which covered employers comply with the overtime requirements of the law, reasons for noncompliance, and possible methods for achieving greater compliance. The study should emphasize an evaluation of long hours of work in the light of the coverage and exemption provisions of the Fair Labor Standards Act.

Increase in witness fees

The committee adopted an amendment providing that a witness attending any U.S. court, or before a U.S. commissioner, or before any person authorized by a court order or rule to take his deposition, shall receive an hourly or fraction of an hour rate, while in attendance or while going to and from the said place of attendance, of compensation equal to the minimum hourly rate prescribed by section 6(a)(1) of the act. But such witness shall receive not less than \$4 per day for each day of such attendance or travel and shall receive 8 cents per mile for such travel.

The committee firmly believes that this is a long overdue amendment to the witness fee provision of the United States Code. It marks a step toward providing adequate payment for the costs of attending such judicial proceedings.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides that the act may be cited as the "Fair Labor Standards Amendments of 1966."

TITLE I—DEFINITIONS

Section 101. Tips

In general, the amendments made by this section provide that an employer of a tipped employee may include a portion of such employee's tips in determining the amount of wages that must be paid such employee to meet the minimum wage requirements of section 6. The computation of the amount which may be included as part of a tipped employee's wages on account of tips is set out in the amendment made by subsection (a) of this section to section 3(m) of the act which in its definition of the term "wage" contains a comparable provision relating to the inclusion in the wages of certain employees of the reasonable cost or value of board, lodging, or other facilities customarily furnished them by their employer. Thus, the wage paid a tipped employee is to be treated as increased on account of tips by an amount determined by his employer which may not exceed 50 percent of the applicable minimum wage. However, if the employee (either himself or acting through his representative) can show to the satisfaction of the Secretary that the actual amount of tips received was less than the amount determined by his employer as the amount by which the employee's wage was deemed to be increased, the employee's wage shall be deemed to have been increased by such lesser amount. Consequently, an employer of a tipped employee must pay him at least 50 percent of the applicable minimum wage rate.

The term "tipped employee" is defined in the new subsection (t) added to section 3 of the act by subsection (b) of this section. Such term is defined to mean any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips. Thus, only the employer for the occupation in which his employee customarily and regularly receives more than \$20 a month in tips may, with respect to such employee, make the allowances on account of tips provided in the amendment to section 3(m).

Section 102. Definition of "enterprise"

The amendments made by subsections (a) and (b) of this section relate to the inclusion of the activities of hospitals and related institutions, special schools, and institutions of higher education in the definition of the term "enterprise" and consequently to the minimum wage and overtime coverage of their employees. Further, those amendments provide that the activities of any street, suburban or interurban electric railway, or local trolley or motorbus carrier whose rates and services are subject to State or local regulation (hereafter in this analysis of sec. 102 referred to as a "local transit system") shall be included in the definition of the term "enterprise."

In section 3(r) of the present act the term "enterprise" is defined to mean related activities performed for a common business purpose. Eleemosynary, educational, or similar activities of organizations which are not operated for profit are not included in the term "enterprise" since they are not performed for a business purpose. Thus, such

activities of a hospital or similar institution, a school for physically or mentally handicapped or gifted children, or an institution for higher education, which is not operated for profit, would not be considered an enterprise as defined in the act. However, in the amendment to section 3(r) of the act made by subsection (b) of this section any activity of such a hospital, school, or institution is to be deemed an activity performed for a business purpose. Thus, for example, employees engaged in a hospital's nonprofit activities or employed by a State hospital will now be covered by the minimum wage and overtime provisions of the act. At present it is not clear that a publicly operated local transit system is operated for a business purpose. However, in the amendment to section 3(r) there is no distinction between a public or private local transit system or a local transit system operated for profit and one operated on a nonprofit basis. Therefore, all the employees of a public local transit system which qualifies as an enterprise engaged in commerce will now be covered by the minimum wage and overtime provisions of the act.

Section 3(d) of the act excludes the United States or a State or a political subdivision thereof from the definition of the term "employer." The amendment made to such section by subsection (b) provides that a State or political subdivision thereof shall be considered an employer for purposes of the act with respect to its employees employed in any hospital or related institution, school for physically or mentally handicapped or gifted children, or institution of higher education or employed in the operation of a local transit system. Thus, certain State or local government employees will be covered by the minimum wage and overtime provisions of the act.

Subsection (c) of this section changes the definition of the term "enterprise engaged in commerce or in the production of goods for commerce" contained in section 3(s). Such term is presently defined to mean any of the types of enterprise or establishments described briefly below:

- (1) A retail or service enterprise whose annual gross volume of sales is not less than \$1 million and which procures at least \$250,000 annually of goods for resale that move or have moved across State lines.

- (2) A local transit enterprise whose annual gross volume of sales is not less than \$1 million.

- (3) A construction enterprise whose annual gross volume of business is not less than \$350,000.

- (4) A gasoline service establishment whose annual gross volume of sales is not less than \$250,000.

- (5) An establishment or any other enterprise, except an establishment referred to above, whose annual gross volume of sales is not less than \$1 million.

The term "enterprise engaged in commerce or in the production of goods for commerce" is amended to mean: an enterprise which has employees engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce, if—

- (1) During the period February 1, 1967, through January 31, 1969, such enterprise has an annual gross volume of sales made or business done of not less than \$500,000, or is a gasoline service establishment with an annual gross volume of sales made or business done of not less than \$250,000;

(2) During the period commencing February 1, 1969, such enterprise has an annual gross volume of sales made or business done of not less than \$250,000;

(3) Such enterprise is engaged in laundering, cleaning, or repair services;

(4) Such enterprise is engaged in the business of construction or reconstruction; or

(5) Such enterprise is engaged in the operation of a hospital, institutions primarily engaged in caring for the sick, aged, or mentally ill, schools for physically or mentally handicapped or gifted children, and institutions of higher education, regardless of whether they are public or private or operated for profit or not for profit.

The \$250,000 test under present law for gasoline service establishments is retained until February 1, 1969, so that employees of these establishments will not lose the protection which they now enjoy.

If the only regular employees of an establishment are its owner and his parent, spouse, child, or other immediate family member, such establishment is excluded from this definition, and its sales shall not be included for the purpose of computing the annual gross volume of sales of any enterprise.

In any case where a person other than the owner of an apartment building is engaged by the owner to perform management services in connection with the operation of the building, those individuals employed at and resident in the building as managers, caretakers, janitors, or in a similar capacity shall be considered for the purposes of this subsection employees of the building owner.

Section 103. Agricultural employees

The bill brings agricultural employees under the coverage of the minimum wage provisions of the act for the first time. In extending minimum wage coverage to agricultural employees, the bill also continues to exempt (in a new sec. 13(a)(6)) from such coverage certain agricultural employees.

The amendments made by this section to section 3 of the act delineate the scope of the exemption based upon the number of man-days of agricultural labor used by the employer. Subsection (b) of this section amends the definition section of the act to provide that the term "man-day" shall mean any day during any portion of which an employee performs agricultural labor. In the amendment to the definition of the term "employee" contained in section 3(e) three classes of agricultural employees are excluded from the definition of that term, but only when that term is used in the definition of the term "man-day". The three classes of employees who are so excluded are as follows: (1) any agricultural employee who is the parent, spouse, child, or other member of his employer's immediate family, and (2) any agricultural hand harvest laborer, paid on a piece-rate basis in an occupation customarily and regularly recognized as having been paid on a piece-rate basis in the area where the employee is employed, who commutes daily from his permanent residence to the farm on which he is so employed, and who has been employed in agriculture less than 13 weeks during the preceding calendar year, and (3) any employee principally engaged in the range production of livestock.

TITLE II—REVISION OF EXEMPTIONS

Section 201. Hotel, restaurant, and recreational establishments; hospitals and related institutions

Section 13(a) of the act provides an exemption from the minimum wage and overtime provision of the act to employees employed in certain establishments or businesses or positions. Section 13(a)(2) of the act in general provides such an exemption to any employee employed in a retail or service establishment, more than 50 percent of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, if the establishment—

(1) is a section 3(s) enterprise and is—

(A) a hotel, motel, restaurant or a seasonal recreational or amusement establishment,

(B) a hospital or related institution or a special school, or

(C) an establishment with less than \$250,000 annual dollar volume of sales, or

(2) is not in a section 3(s) enterprise.

The retail or service establishment exemption is revised by subsection (a) of section 201 to exempt employees of any such establishment (other than an establishment or employee engaged in laundering or drycleaning or an establishment engaged in the operation of a hospital, school, or institution specifically included in the definition of the term "enterprise engaged in commerce or in the production of goods for commerce") which has an annual dollar volume of sales of less than \$250,000. Thus, the exemption for employees of a retail or service establishment is retained only for employees in any such establishment which—

(1) makes more than 50 percent of its annual dollar volume of sales of goods or services within the State in which such establishment is located and is not in a section 3(s) enterprise; or

(2) makes more than 50 percent of its annual dollar volume of sales of goods or services within the State in which such establishment is located, is in a section 3(s) enterprise, and has an annual dollar volume of sales of less than \$250,000.

Subsection (b) retains for employees of hotels, motels, restaurants and nursing homes an overtime exemption. The subsection also provides, with additional limitations, a minimum wage and overtime exemption for recreational establishments. To qualify for the exemption such an establishment must either operate for no more than 7 months in a calendar year or have average receipts for a 6-month period in the preceding calendar year which are not in excess of 33½ percent of its average receipts for the other 6 months of such year.

Section 202. Laundry and drycleaning establishments

This section repeals the minimum wage and overtime exemption applicable to employees in laundry and drycleaning establishments. This amendment, the amendments providing a new definition of a section 3(s) enterprise and the revision of the retail or service establishment exemption together provide for complete minimum wage and overtime protection for employees of such establishments.

Section 203. Agricultural employees

Presently, no agricultural employees are covered by the minimum wage or overtime provisions of the act. The amendments made in

this bill provide a minimum wage for certain agricultural employees but maintain the exemption from overtime provisions of the act.

The following exemptions contained in section 13(a) relating to agricultural employees are repealed and placed in section 13(b) as exemptions from the overtime provisions of the act:

(1) Employees employed in agriculture and in the operation of certain irrigation facilities (old sec. 13(a)(6) and new sec. 13(b)(12)), and

(2) Agricultural employees employed in livestock auctions (old sec. 13(a)(16) and new sec. 13(b)(13)).

To determine the agricultural employees to whom the minimum wage will apply, the new exemption from minimum wage coverage established in a new section 13(a)(6) for agricultural employees must be examined. First, the exemption specifically excludes four classes of agricultural workers—

(A) an agricultural employee who is the parent, spouse, child, or other member of his employer's immediate family;

(B) a hand harvest employee paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized in the region as having been paid on this basis, who commutes daily from his permanent residence to the farm where he is so employed, and who has been employed in agriculture less than 13 weeks during the preceding calendar year;

(C) a migrant hand harvest worker 16 years of age or under who is employed on a piece-rate basis in an operation which has been, and is customarily and generally recognized in the region as having been paid for on this basis, if the child is working on the same farm as his parent and receives the same piece rate as other workers over age 16;

(D) any employee principally engaged in the range production of livestock.

With respect to any other agricultural employee, minimum wage coverage depends on whether his employer used during any of the four preceding calendar quarters during the preceding calendar year more than 500 man-days of agricultural labor performed by employees (other than employees excluded from the definition of the term "man-day"). Thus, if in the peak calendar quarter there were no more than 75 days during which the employer employed six employees (resulting in 450 man-days of agricultural labor), the exemption would apply during the following years and the employees would not be covered by the minimum wage, but if he employed seven employees instead of six during such days (resulting in more than 500 man-days of agricultural labor), his employees would be covered by the minimum wage during the following year (unless specifically exempted as outlined above).

Section 203 of the bill also amends section 13(c) of the act, which presently provides a child labor exemption for any agricultural employee employed outside of school hours for the school district where he lives while so employed. This provision is amended to provide also that no employee below the age of 16 may be employed in agriculture in an occupation found by the Secretary to be hazardous for the employment of children, except where the child is employed by his parent on a farm owned or operated by the parent.

Section 204. Agricultural processing employees

This section revises the exemptions relating to agricultural processing employees contained in section 13(a) and section 7 of the act.

The exemptions in section 13(a) for the following employees have been repealed and placed as new overtime exemptions in section 13(b):

(1) Employees employed by a country elevator (old sec. 13(a)(17) and new sec. 13(b)(14)).

(2) Employees employed in the ginning of cotton (old sec. 13(a)(18) and new sec. 13(b)(15)).

(3) Employees engaged in the transportation of fruit and vegetables to a place of first processing or the transportation of farm workers for employment in harvesting fruits and vegetables (old sec. 13(a)(22) and new sec. 13(b)(16)).

There is in section 7(b)(3) of the act a 14-week overtime exemption, limited to 12 hours a day and 56 hours a week, applicable to employees employed in seasonal industries. A revised version of this exemption has been established by section 204(c) of the bill as a new section 7(c). The new exemption is limited to 10 hours a day and 52 hours a week.

The present overtime exemption in section 7(c) of the act may be summarized as follows:

(1) There is a year-round unlimited exemption applicable to employees of employers engaged at the place of employment in—

- (A) first processing of milk, etc., into dairy products,
- (B) cotton ginning and compressing,
- (C) cottonseed processing, or
- (D) the processing of certain farm products into sugar or sirup.

(2) There is a 14-week unlimited exemption applicable to employees of employers engaged in—

- (A) first processing, canning, or packing of perishable or seasonal fresh fruits or vegetables,
- (B) first processing within the area of production of any agricultural commodity during seasonal operations, or
- (C) handling, slaughtering or dressing of livestock or poultry.

The present exemption in section 13(a)(10) of the act provides a complete year-round exemption from both the minimum wage and overtime provisions of the act for employees in the area of production engaged in—

- (1) handling, packing, et cetera, of agricultural or horticultural commodities in their raw or natural state,
- (2) canning agricultural or horticultural commodities for market, or
- (3) making dairy products.

These exemptions are replaced by new exemptions contained in a new section 7(d). That section provides a 14-week overtime exemption, limited to 10 hours a day and 48 hours a week, for employees employed in an industry found by the Secretary (1) to be engaged in the handling, processing, et cetera, of perishable agricultural or horticultural commodities in their raw or natural state, and (2) to be either seasonal in nature or characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of such commodities from farms.

Perishable covers products subject to decay or spoilage. A commodity is not regarded as perishable at the time of delivery unless under ordinary circumstances some affirmative and continuous step such as refrigeration or canning is necessary to preserve it from spoilage or decay.

A seasonal industry is one which stops its primary operations during those parts of the year when as a result of natural conditions the commodities handled in such industry are not available. On the other hand, an industry characterized by seasonal peaks of operation does not stop its primary operations during the year but rather maintains them at a constant level except during certain periods of the year when its operations are greatly expanded to take care of the seasonal influx of the commodities in their raw or natural state. The committee intends that the dairy industry shall qualify for this exemption. An employer who qualifies for both exemptions cannot avail himself of either exemption for a period of more than 10 workweeks, making 20 workweeks the maximum aggregate period of exemption available to any employer.

Section 205. Small newspapers

The present section 13(a)(8) of the act provides a minimum wage and overtime exemption for publication employees of certain small newspapers if the major part of the newspaper's circulation is within the county in which it is printed and published or counties contiguous thereto. Such section is amended by this section so that the major part of the newspaper's circulation need only be in the county in which the newspaper is published or those contiguous thereto. The paper may be printed elsewhere.

Section 206. Transportation companies

The minimum wage and overtime exemption provided in section 13(a)(9) of the act for all employees of a local transit company not in a section 3(s) enterprise is repealed by subsection (a) of this section.

Subsection (b) repeals the minimum wage and overtime exemption for all taxicab company employees and substitutes an overtime exemption for drivers only employed by such companies.

Subsection (c) of this section amends section 13(b)(7) by repealing the present overtime exemption for employees of local transit systems, and by limiting the exemption to operating employees of employers with annual gross sales or business done of less than \$1 million.

Section 207. Motion picture theater employees

This section in a new section 13(a)(9) retains for motion picture theater employees a minimum wage and overtime exemption.

Section 208. Logging operations

The minimum wage and overtime exemption provided for employees of employers who employ 12 men or fewer employees engaged in lumbering and forestry operations is amended by this section to provide such an exemption only in the case of crews of 8 men or less for the year beginning February 1, 1967, and only in the case of 6 or less beginning February 1, 1968 and thereafter.

Section 209. Automobile, aircraft, and farm implement sales establishments

The minimum wage and overtime exemption provided by section 13(a)(19) of the Act for employees of a retail or service

establishment primarily engaged in the selling of autos, trucks and farm implements is repealed, but an overtime exemption is provided in a new section 13(b)(10) for the salesmen (other than partsmen) and mechanics employed by dealerships engaged in the business of selling automobiles, trailers, trucks, farm implements or aircraft to the ultimate purchaser.

The exemption, unlike that contained in section 13(b)(19), is not limited to "retail" dealerships. It is the intent of this exemption to exclude from the coverage of section 7 all mechanics and salesmen (other than partsmen) employed by an automobile, trailer, truck, farm implement or aircraft dealership even if they work in physically separate buildings or areas, or even if, though working in the principal building of the dealership, their work relates to the work of physically separate buildings or areas, so long as they are employed in a department which is functionally operated as part of the dealership.

Section 210. Food service employees

The minimum wage and overtime exemption contained in section 13(a)(20) of the act which covered food service employees is repealed, and an overtime exemption is provided such employees in a new section 13(b)(8). The employees covered by this exemption are food service employees of retail and service establishments, which may include drug stores, department stores, bowling alleys, and the like.

Section 211. Gasoline service stations

The overtime exemption contained in section 13(b)(8) of the present act which was applicable to employees of gasoline service stations is repealed.

Section 212. Petroleum distribution employees

The unlimited overtime exemption contained in section 13(b)(10) of the act which covered petroleum distribution employees is repealed, and an overtime exemption, limited to 12 hours a day and 56 hours a week, is provided in a new section 7(b)(3) for such employees if they receive compensation for the hours of employment in excess of 40 but no more than 56 in any workweek at a rate not less than 1½ times the applicable minimum wage rate.

Section 213. Eniwetok and Kwajalein Atolls and Johnston Island

This section expands the geographical coverage of the act to employees in Eniwetok Atoll, Kwajalein Atoll, and Johnston Island by amending section 13(f).

Section 214. Technical and conforming amendments

This section makes a conforming amendment to section 3(n) to reflect the amendment to section 3(s) and also redesignates the paragraphs remaining in section 13(a) for the purpose of filling the gaps left by the repeals made in this title of the bill.

TITLE III—INCREASE IN MINIMUM WAGE

Section 301. Presently covered employees

This section amends section 6(a) of the act to increase the minimum wage to be paid employees who now receive the protection of the

minimum wage provisions of the act. The new minimum wage rate for these persons will be \$1.40 an hour during the year beginning February 1, 1967, and \$1.60 an hour beginning February 1, 1968.

The amendment made by subsection (b) of this section does not make any substantive change, but rather merely rearranges the order of the provisions of the present act.

Section 302. Agricultural employees

The amendment made by this section requires employees employed in agriculture, unless specifically exempted, to be paid a minimum wage. The minimum wage rate for these employees will be \$1 an hour during the year beginning February 1, 1967; \$1.15 an hour during the next year; and \$1.30 an hour beginning February 1, 1969.

In the case of hand harvest workers employed in agriculture on a piece rate basis, if the average of the aggregated earnings of all such workers during any workweek exceed the prescribed minimum hourly wage, the employer will be considered in compliance with this section. However, no individual worker may receive less than 75 percent of the applicable minimum wage.

Section 303. Newly covered nonagricultural, non-Federal employees

This section amends section 6(b) of the act to prescribe the minimum wage to be paid employees who are newly brought within the purview of the act by the amendments made by this bill. Under this provision the newly covered employees will receive wages at rates not less than \$1 an hour beginning February 1, 1967; not less than \$1.15 an hour beginning February 1, 1968; not less than \$1.30 an hour beginning February 1, 1969; not less than \$1.45 an hour beginning February 1, 1970; and not less than \$1.60 an hour beginning February 1, 1971.

Section 304. Employees in Puerto Rico and the Virgin Islands

Under the present act, minimum wage rates for Puerto Rico and the Virgin Islands are established by the Secretary pursuant to recommendations of special industry committees. The wages established for an industry must be set at levels as close as economically feasible to the applicable mainland level, but may not be higher than the rate which would be applicable in the United States.

This section prescribes the manner in which wage rates in Puerto Rico and the Virgin Islands will be adjusted in light of the increases proposed in the bill. Under these provisions, the wage rates for those persons who are presently covered will be increased 12 percent effective 60 days after February 1, 1967, or 1 year from the effective date of the most recent wage order theretofore applicable to the employees, whichever is later. Then 1 year later the wage rate for such persons will be increased by an amount equal to 16 percent of the rates applicable under the most recent wage order issued by the Secretary before February 1, 1967. However, upon application from employers employing a majority of the employees in an industry, the Secretary may appoint a review committee where he has reasonable cause to believe that compliance with the wage increases will substantially curtail employment. Pursuant to the recommendation of such a review committee, a wage order may be issued authorizing a lower wage rate.

In the case of employees in Puerto Rico and the Virgin Islands (including agricultural employees) who have not heretofore been cov-

ered by the act, the Secretary must within 60 days after February 1, 1967, appoint a special industry committee to recommend the minimum wage rate to be applicable, in accordance with the usual standards applicable to industry committees prescribed in sections 5 and 8 of the law. These rates will be effective with respect to the employee upon the effective date of the wage order issued pursuant to the recommendations of the industry committee, but not before 60 days after February 1, 1967. No rate established by this act shall apply prior to the expiration of the said 60 days.

Section 305. Contract services to Federal Government

This section adds a new subsection at the end of section 6 which requires every employer providing services under a contract subject to section 2(b)(1) of the Service Contract Act of 1965 to pay his employees not less than the rates prescribed by section 6(b)—that is, the rates applicable to newly covered workers. This section would not be applicable with respect to—

- (1) employees employed in a capacity described in section 13(a)(1);
- (2) employees to whom the wage rates of section 6(a)(1) are applicable;
- (3) employees whose wages are governed by the Service Contract Act of 1965.

The section would not affect section 6(c), which, with respect to Puerto Rico and the Virgin Islands, provides for superseding the wage rates under sections 6(a)(1) and 6(b) by wage orders issued by the Secretary of Labor pursuant to industry committee recommendations.

Section 306. Federal employees

In an amendment to section 18 of the act it is provided that certain Federal wage board employees, employees of naval facilities whose wages are established to conform with those in the immediate vicinity, and employees in nonappropriated fund instrumentalities of the Armed Forces; e.g., post exchanges, must be paid basic compensation at a rate not less than the rate provided in section 6(a)(1) of the act (6(b) rates for employment in the Canal Zone) and also must be paid for overtime work at a rate not less than that specified in section 7(a) of the act. Since this amendment is not subject to any other provisions of the act, the industry committee procedures of section 6(c) of the act will not be applicable with respect to Federal employees employed in Puerto Rico or the Virgin Islands.

TITLE IV—APPLICATION OF MAXIMUM HOURS PROVISIONS

Section 401. Presently and newly covered employees

This section amends section 7 of the act to prescribe a uniform 40-hour standard workweek for all of the employees who are presently covered. It also establishes for newly covered employees a standard workweek of 44 hours during the year beginning February 1, 1967, 42 hours during the next year, and 40 hours thereafter. Employees employed in excess of the hours above specified must be paid at a rate not less than 1½ times the regular rate at which they are employed.

Section 402. Commission salesman

This section amends subsection (h) of the present act (subsec. (i) of the act as redesignated by the bill) which now provides an exemp-

tion from the overtime provisions of the act in the case of an employee of a retail or service establishment whose regular rate of pay is more than $1\frac{1}{2}$ times the minimum rate, if more than half his compensation represents commissions on goods or services. The amendment provides that in determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.

Section 403. Overtime for hospital workers

This section amends section 7 of the act to permit hospitals to calculate their overtime on a biweekly rather than weekly basis. This basis of computing overtime may be used only where the employees of the hospital have reached an understanding with their employer that the work period is to be a period of 14 consecutive days. Moreover, this exemption from the requirement that overtime be computed on a weekly basis is applicable only if the employee is paid time and one-half his regular rate of pay for a workday of longer than 8 hours, and for hours worked over 80 in a 14-day work period.

TITLE V—HANDICAPPED WORKERS

Section 501–504. Handicapped workers

Section 14 of the present law allows the Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, to permit the employment of handicapped workers at wages lower than the applicable minimum wage. The bill adds two new subsections to section 14 relating to the employment of handicapped workers in sheltered workshops and the establishment of work activity centers.

The new subsection (b) provides that handicapped workers employed in sheltered workshops must be paid wages commensurate with those paid nonhandicapped workers for essentially the same type, quality, and quantity of work, but not less than 50 percent of the applicable minimum wage during 1967, 75 percent of such minimum wage during 1968, and 100 percent of such minimum wage thereafter. However, the Secretary may issue special certificates for less than the minimum wage in proportion to the worker's productivity where the work is incidental to a training or evaluation program, or under exceptional circumstances where individuals are so severely impaired that they cannot engage in competitive employment.

The new subsection (c) of section 14 authorizes the Secretary to establish special rates of compensation for handicapped workers employed in "work activity centers." A "work activity center," as this term is used in the bill, means an establishment designed exclusively for workers whose physical or mental handicap is so severe as to make their productive capacity inconsequential.

This subsection also directs the Secretary to conduct a study by January 1, 1968, to establish an equitable means for setting the wages of workers in work activity centers. Until the Secretary's study is completed, he is directed to approve special certificates for wages less than the minimum wage required for sheltered workshop workers. Finally, the bill directs the Secretary of Labor to study and to report to Congress by July 1, 1967, on wage payments to handicapped clients

in sheltered workshops and the feasibility of raising existing wage standards in such workshops.

TITLE VI—STATUTE OF LIMITATIONS; EFFECTIVE DATE; AND STUDY

Section 601. Statute of limitations

This section amends section 16(c) of the act and section 6(a) of the Portal-to-Portal Act, which contain the statute of limitations applicable to the Fair Labor Standards Act.

The amendment provides that where a cause of action arises out of a willful violation it may be commenced within 3 years after the cause of action accrued, instead of within 2 years as is the case under the present law.

Section 602. Effective date

This section provides that the amendments made by the bill shall take effect February 1, 1967. The Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the bill's provisions on and after the bill's enactment.

Section 603. Study of excessive overtime

This section directs the Secretary of Labor to begin immediately a complete study of present practices dealing with overtime payments for work in excess of 40 hours per week in industry under the act and the extent to which such overtime work impedes the creation of new job opportunities. The Secretary will make a report to Congress of his findings with appropriate recommendations by July 1, 1967.

TITLE VII—INCREASE IN WITNESS FEES

Section 701. Increase in witness fees

Section 1821 of title 28, United States Code, now provides that witnesses in U.S. courts and in certain related proceedings are to receive \$4 for each day's attendance as a witness and for time necessarily spent in going to and returning from same. This provision is amended by section 701 of the bill to provide that such witnesses shall receive compensation for such attendance and travel at a rate not less than the minimum hourly rate under section 6(a)(1) of the FLSA, but in any event not less than \$4 per day.

Section 702

This section provides that the amendments made by this title shall take effect on the first day of the third month beginning after the date of enactment of the amendments.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FAIR LABOR STANDARDS ACT OF 1938

AN ACT To provide for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Labor Standards Act of 1938."

FINDING AND DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce.

(b) It is hereby declared to be the policy of this Act, through the exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

(b) "Commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(c) "State" means any State of the United States or the District of Columbia or any Territory or possession of the United States.

(d) "Employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee but shall not include the United States or any State or political subdivision of a State (*except with respect to employees of a State, or a political subdivision thereof, employed (1) in a hospital, institution, or school referred to in the last sentence of subsection (r) of this section, or (2) in the operation of a railway or carrier referred to in such sentence*), or any labor

organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

(e) "Employee" includes any individual employed by an employer, *except that such term shall not, for the purposes of section 3(u), include—*

(1) any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family,

(2) any individual who is employed by an employer engaged in agriculture if such individual (A) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (B) commutes daily from his permanent residence to the farm on which he is so employed, and (C) has been employed in agriculture less than thirteen weeks during the preceding calendar year, or

(3) any individual who is employed by an employer engaged in agriculture if such individual is principally engaged in the range production of livestock.

(f) "Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

(g) "Employ" includes to suffer or permit to work.

(h) "Industry" means a trade, business, industry, or branch thereof, or group of industries, in which individuals are gainfully employed.

(i) "Goods" means goods (including ships and marine equipment), wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof, but does not include goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof.

(j) "Produced" means produced, manufactured, mined, handled, or in any other manner worked on in any State; and for the purposes of this Act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State.

(k) "Sale" or "sell" includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

(l) "Oppressive child labor" means a condition of employment under which (1) any employee under the age of sixteen years is employed by an employer (other than a parent or a person standing in place of a parent employing his own child or a child in his custody under the age of sixteen years in an occupation other than manufacturing or mining or an occupation found by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their

health or well-being) in any occupation, or (2) any employee between the ages of sixteen and eighteen years is employed by an employer in any occupation which the Secretary of Labor shall find and by order declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being; but oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child labor age. The Secretary of Labor shall provide by regulation or by order that the employment of employees between the ages of fourteen and sixteen years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being.

(m) "Wage" paid to any employee includes the reasonable cost, as determined by the Secretary of Labor, to the employer of furnishing such employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by such employer to his employees: *Provided*, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective-bargaining agreement applicable to the particular employee: *Provided further*, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measures of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee. *In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 per centum of the applicable minimum wage rate, except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount.*

(n) "Resale" [, except as used in subsection (s)(1),] shall not include the sale of goods to be used in residential or farm building construction, repair, or maintenance: *Provided*, That the sale is recognized as a bona fide retail sale in the industry.

(o) HOURS WORKED.—In determining for the purposes of sections 6 and 7 the hours for which an employee is employed, there shall be excluded any time spent in changing clothes or washing at the beginning or end of each workday which was excluded from measured working time during the week involved by the express terms of or by custom or practice under a bona fide collective-bargaining agreement applicable to the particular employee.

(p) "American vessel" includes any vessel which is documented or numbered under the laws of the United States.

(q) "Secretary" means the Secretary of Labor.

(r) "Enterprise" means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor: *Provided, That, within the meaning of this subsection, a retail or service establishment which is under independent ownership shall not be deemed to be so operated or controlled as to be other than a separate and distinct enterprise by reason of any arrangement, which includes, but is not necessarily limited to, an agreement, (1) that it will sell, or sell only, certain goods specified by a particular manufacturer, distributor, or advertiser, or (2) that it will join with other such establishments in the same industry for the purpose of collective purchasing, or (3) that it will have the exclusive right to sell the goods or use the brand name of a manufacturer, distributor, or advertiser within a specified area, or by reason of the fact that it occupies premises leased to it by a person who also leases premises to other retail or service establishments. For purposes of this subsection, the activities performed by any person or persons—*

(1) in connection with the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for physically or mentally handicapped or gifted children, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit), or

(2) in connection with the operation of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), shall be deemed to be activities performed for a business purpose.

[(s) "Enterprise engaged in commerce or in the production of goods for commerce" means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

[(1) any such enterprise which has one or more retail or service establishments if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated and if such enterprise purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to \$250,000 or more;

[(2) any such enterprise which is engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier if the annual gross volume of sales of such enterprise is not less than \$1,000,000, exclusive of excise taxes at the retail level which are separately stated;

[(3) any establishment of any such enterprise, except establishments and enterprises referred to in other paragraphs of this subsection, which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000;

[(4) any such enterprise which is engaged in the business of construction or reconstruction, or both, if the annual gross volume from the business of such enterprise is not less than \$350,000;

[(5) any gasoline service establishment if the annual gross volume of sales of such establishment is not less than \$250,000, exclusive of excise taxes at the retail level which are separately stated:

[*Provided*, That an establishment shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce, or a part of an enterprise engaged in commerce or in the production of goods for commerce, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection, if the only employees of such establishment are the owner thereof or persons standing in the relationship of parent, spouse, or child of such owner.]

(s) "*Enterprise engaged in commerce or in the production of goods for commerce*" means an enterprise which has employees engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person, and which—

(1) during the period February 1, 1967, through January 31, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than \$500,000 (exclusive of excise taxes at the retail level which are separately stated) or is a gasoline service establishment whose annual gross volume of sales is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated), and beginning February 1, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated);

(2) is engaged in laundering, cleaning, or repairing clothing or fabrics;

(3) is engaged in the business of construction or reconstruction, or both; or

(4) is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for physically or mentally handicapped or gifted children, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit).

Any establishment which has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owners shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection. In any case in which a person other than the owner of an apartment building is engaged by such

owner to perform management services in connection with the operation of such building, any individual employed at, and resident in, such building as a manager, caretaker, or janitor, or in a similar capacity, shall be considered, for the purposes of this subsection, to be the employee of the owner of such building.

(t) *"Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips.*

(u) *"Man-day" means any day during any portion of which an employee performs any agricultural labor.*

ADMINISTRATION

SEC. 4. (a) There is hereby created in the Department of Labor a Wage and Hour Division which shall be under the direction of an Administrator, to be known as the Administrator of the Wage and Hour Division (in this Act referred to as the "Administrator"). The Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$20,000 a year.

(b) The Secretary of Labor may, subject to the civil service laws, appoint such employees as he deems necessary to carry out his functions and duties under this Act and shall fix their compensation in accordance with the Classification Act of 1949, as amended. The Secretary may establish and utilize such regional, local, or other agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed. Attorneys appointed under this section may appear for and represent the Secretary in any litigation, but all such litigation shall be subject to the direction and control of the Attorney General. In the appointment, selection, classification, and promotion of officers and employees of the Secretary, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency.

(c) The principal office of the Secretary shall be in the District of Columbia, but he or his duly authorized representative may exercise any or all of his powers in any place.

(d) The Secretary shall submit annually in January a report to the Congress covering his activities for the preceding year and including such information, data, and recommendations for further legislation in connection with the matters covered by this Act as he may find advisable. Such report shall contain an evaluation and appraisal by the Secretary of the minimum wages established by this Act, together with his recommendations to the Congress. In making such evaluation and appraisal, the Secretary shall take into consideration any changes which may have occurred in the cost of living and in productivity and the level of wages in manufacturing, the ability of employers to absorb wage increases, and such other factors as he may deem pertinent.

(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. If he determines such increased unemployment has in

fact resulted, or is in fact likely to result, from such competition, he shall make a full and complete report of his findings and determinations to the President and to the Congress: *Provided*, That he may also include in such report information on the increased employment resulting from additional exports in any industry under this Act as he may determine to be pertinent to such report.

SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 5. (a) The Secretary of Labor shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged in commerce or in the production of goods for commerce or employed in any enterprise engaged in commerce or in the production of goods for commerce, or the Secretary may appoint separate industry committees to recommend the minimum rate or rates of wages to be paid under section 6 to employees therein engaged in commerce or in the production of goods for commerce or employed in any enterprise engaged in commerce or in the production of goods for commerce in particular industries. An industry committee appointed under this subsection shall be composed of residents of such island or islands where the employees with respect to whom such committee was appointed are employed and residents of the United States outside of Puerto Rico and the Virgin Islands. In determining the minimum rate or rates of wages to be paid, and in determining classifications, such industry committees shall be subject to the provisions of section 8.

(b) An industry committee shall be appointed by the Secretary without regard to any other provisions of law regarding the appointment and compensation of employees of the United States. It shall include a number of disinterested persons representing the public, one of whom the Secretary shall designate as chairman, a like number of persons representing employees in the industry, and a like number representing employers in the industry. In the appointment of the persons representing each group, the Secretary shall give due regard to the geographical regions in which the industry is carried on.

(c) Two-thirds of the members of an industry committee shall constitute a quorum, and the decision of the committee shall require a vote of not less than a majority of all its members. Members of an industry committee shall receive as compensation for their services a reasonable per diem, which the Secretary shall by rules and regulations prescribe, for each day actually spent in the work of the committee, and shall in addition be reimbursed for their necessary traveling and other expenses. The Secretary shall furnish the committee with adequate legal, stenographic, clerical, and other assistance, and shall by rules and regulations prescribe the procedure to be followed by the committee.

(d) The Secretary shall submit to an industry committee from time to time such data as he may have available on the matters referred to it, and shall cause to be brought before it in connection with such matters any witnesses who he deems material. An industry committee may summon other witnesses or call upon the Secretary to furnish additional information to aid it in its deliberations.

MINIMUM WAGES

SEC. 6. (a) Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for **[commerce wages]** *commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates—*

[(1) not less than \$1.15 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1961, and not less than \$1.25 an hour thereafter, except as otherwise provided in this section.**]**

(1) not less than \$1.40 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966 and not less than \$1.60 an hour thereafter, except as otherwise provided in this section;

(2) if such employee is a home worker in Puerto Rico or the Virgin Islands, not less than the minimum piece rate prescribed by regulation or order; or, if no such minimum piece rate is in effect, any piece rate adopted by such employer which shall yield, to the proportion or class of employees prescribed by regulation or order, not less than the applicable minimum hourly wage rate. Such minimum piece rates or employer piece rates shall be commensurate with, and shall be paid in lieu of, the minimum hourly wage rate applicable under the provisions of this section. The Secretary of Labor, or his authorized representative, shall have power to make such regulations or orders as are necessary or appropriate to carry out any of the provisions of this paragraph, including the power without limiting the generality of the foregoing, to define any operation or occupation which is performed by such home work employees in Puerto Rico or the Virgin Islands; to establish minimum piece rates for any operation or occupation so defined; to prescribe the method and procedure for ascertaining and promulgating minimum piece rates; to prescribe standards for employer piece rates, including the proportion or class of employees who shall receive not less than the minimum hourly wage rate; to define the term "home worker"; and to prescribe the conditions under which employers, agents, contractors, and subcontractors shall cause goods to be produced by home workers;

(3) if such employee is employed in American Samoa, in lieu of the rate or rates provided by this subsection or subsection (b), not less than the applicable rate established by the Secretary of Labor in accordance with recommendations of a special industry committee or committees which he shall appoint in the same manner and pursuant to the same provisions as are applicable to the special industry committees provided for Puerto Rico and the Virgin Islands by this Act as amended from time to time. Each such committee shall have the same powers and duties and shall apply the same standards with respect to the application of the provisions of this Act to employees employed in American Samoa as pertain to special industry committees established under section 5 with respect to employees employed in Puerto Rico or the Virgin Islands. The minimum wage rate thus established shall not exceed the rate prescribed in paragraph (1) of this subsection**[.]**;

(4) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement); or

(5) if such employee is employed in agriculture, not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during the second year from such date, and not less than \$1.30 an hour thereafter: Provided, That in the case of workers employed in agriculture in hand harvest work by an employer on a piece-rate basis, if during any workweek the average of the aggregated earnings of such workers exceeds the minimum hourly wage as prescribed above, the employer shall be considered to be in compliance with this section: Provided further, That no employee employed on such piece-rate basis is paid less than 75 per centum of the minimum wage applicable under this paragraph.

[(b) Every employer shall pay to each of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s) (1), (2), or (4) or by an establishment described in section 3(s) (3) or (5), and who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this section, or (ii) is brought within the purview of this section by the amendments made to section 13(a) of this Act by the Fair Labor Standards Amendments of 1961, wages at rates—

[(1) not less than \$1 an hour during the first three years from the effective date of such amendments; not less than \$1.15 an hour during the fourth year from such date; and not less than the rate effective under paragraph (1) of subsection (a) thereafter;

[(2) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off duty periods which are provided pursuant to the employment agreement).]

(b) Every employer shall pay to each of his employees (other than an employee to whom subsection (a)(5) applies) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this section by the amendments made to this Act by the Fair Labor Standards Amendments of 1966, wages at the following rates:

(1) not less than \$1 an hour during the first year from the effective date of such amendments,

(2) not less than \$1.15 an hour during the second year from such date,

(3) *not less than \$1.30 an hour during the third year from such date,*

(4) *not less than \$1.45 an hour during the fourth year from such date, and*

(5) *not less than \$1.60 an hour thereafter.*

(c)(1) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5. **¶: Provided, That** (1) the following rates shall apply to any such employee to whom the rate or rates prescribed by subsection (a) would otherwise apply: **¶**

¶(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, increased by 15 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1961 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

¶(B) Beginning two years after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 10 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1961, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

¶(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1961 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pur-

suant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

[(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts].

(2) *In the case of any such employee who is covered by such a wage order and to whom the rate or rates prescribed by subsection (a) would otherwise apply, the following rates shall apply:*

(A) *The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966 increased by 12 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee, appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1966 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.*

(B) *Beginning one year after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 16 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).*

(C) *Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1966 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not*

more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection: The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

(3) In the case of any such employee to whom subsection (a)(5) or subsection (b) would otherwise apply, the Secretary shall within sixty days after the effective date of the Fair Labor Standards Amendments of 1966 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 8, but not in excess of the applicable rate provided by subsection (a)(5) or subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (a)(5) or subsection (b), as the case may be. The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1966.

[(3)] (4) The provisions of section 5 and section 8 relating to special industry committees shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not

in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee.

(d)(1) No employer having employees subject to any provisions of this section shall discriminate within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: *Provided*, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.

(2) No labor organization, or its agents, representing employees of an employer having employees subject to any provisions of this section shall cause or attempt to cause such an employer to discriminate against an employee in violation of paragraph (1) of this subsection.

(3) For purposes of administration and enforcement, any amounts owing to any employee which have been withheld in violation of this subsection shall be deemed to be unpaid minimum wages or unpaid overtime compensation under this Act.

(4) As used in this subsection, the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(e)(1) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof), every employer providing services under a contract subject to section 2(b)(1) of the Service Contract Act of 1965 (79 Stat. 1034) or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965 (Public Law 89-286) or to whom subsection (a)(1) of this section is not applicable, wages at rates not less than the rates provided for in subsection (b) of this section.

MAXIMUM HOURS

SEC. 7. (a)(1) Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for **[commerce for]** commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours **[,]** unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed **[; and]**.

[(2) No employer shall employ any of his employees who in any workweek (i) is employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined in section 3(s)(1) or (4), or by an establishment described in section 3(s)(3), and

who, except for the enactment of the Fair Labor Standards Amendments of 1961, would not be within the purview of this subsection, or (ii) is brought within the purview of this subsection by the amendments made to section 13 of this Act by the Fair Labor Standards Amendments of 1961—

[(A) for a workweek longer than forty-four hours during the third year from the effective date of the Fair Labor Standards Amendments of 1961,

[(B) for a workweek longer than forty-two hours during the fourth year from such date,

[(C) for a workweek longer than forty hours after the expiration of the fourth year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.]

(2) *No employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this subsection by the amendments made to this Act by the Fair Labor Standards Amendments of 1966—*

(A) for a workweek longer than forty-four hours during the first year from the effective date of the Fair Labor Standards Amendments of 1966,

(B) for a workweek longer than forty-two hours during the second year from such date, or

(C) for a workweek longer than forty hours after the expiration of the second year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

(b) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of that specified in such subsection without paying the compensation for overtime employment prescribed therein if such employee is so employed—

(1) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand and forty hours during any period of twenty-six consecutive weeks, or

(2) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board which provides that during a specified period of fifty-two consecutive weeks the employee shall be employed not more than two thousand two hundred and forty hours and shall be guaranteed not less than one thousand eight hundred and forty hours (or not less than forty-six weeks at the normal number of hours worked per week, but not less than thirty hours per week) and not more than two thousand and eighty hours of employment for which he shall receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of the maximum workweek applicable to such employee under subsection (a) or two thousand and eighty in such period at rates not

less than one and one-half times the regular rate at which he is employed; or

[(3) for a period or periods of not more than fourteen workweeks in the aggregate in any calendar year in an industry found by the Secretary of Labor to be of a seasonal nature,]

(3) *by an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if—*

(A) *the annual gross volume of sales of such enterprise is less than \$1,000,000 exclusive of excise taxes,*

(B) *more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and*

(C) *not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale,*

and such employee receives compensation for employment in excess of forty hours in any workweek at a rate not less than one and one-half times the minimum wage rate applicable to him under section 6, and if such employee receives compensation for employment in excess of twelve hours in any workday, or for employment in excess of fifty-six hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

[(c) In the case of an employer engaged in the first processing of milk, buttermilk, whey, skimmed milk, or cream into dairy products, or in the ginning and compressing of cotton, or in the processing of cottonseed, or in the processing of sugar beets, sugar beet molasses, sugarcane, or maple sap, into sugar (but not refined sugar) or into sirup, the provisions of subsection (a) shall not apply to his employees in any place of employment where he is so engaged; and in the case of an employer engaged in the first processing of, or in canning or packing, perishable or seasonal fresh fruits or vegetables, or in the first processing, within the area of production (as defined by the Secretary), of any agricultural or horticultural commodity during seasonal operations, or in handling, slaughtering, or dressing poultry or livestock, the provisions of subsection (a), during a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, shall not apply to his employees in any place of employment where he is so engaged.]

(c) *For a period or periods of not more than ten workweeks in the aggregate in any calendar year, or fourteen workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (d) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection if such employee (1) is employed by such employer in an industry found by the Secretary to be of a seasonal nature, and (2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment by such employer in excess of fifty-two hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.*

(d) *For a period or periods of not more than ten workweeks in the aggregate in any calendar year, or fourteen workweeks in the aggregate in the case of an employer who does not qualify for the exemption in*

subsection (c) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection, if such employee—

(1) is employed by such employer in an enterprise which is in an industry found by the Secretary—

(A) to be characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of agricultural or horticultural commodities from farms if such industry is engaged in the handling, packing, preparing, storing, first processing, or canning of any highly perishable agricultural or horticultural commodities in their raw or natural state, or

(B) to be of a seasonal nature and engaged in the handling, packing, storing, preparing, first processing, or canning of any highly perishable agricultural or horticultural commodities in their raw or natural state, and

(2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

[(d)] *(e) As used in this section the “regular rate” at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf of, the employee, but shall not be deemed to include—*

(1) sums paid as gifts; payments in the nature of gifts made at Christmas time or on other special occasions, as a reward for service, the amounts of which are not measured by or dependent on hours worked, production, of efficiency;

(2) payments made for occasional periods when no work is performed due to vacation, holiday, illness, failure of the employer to provide sufficient work, or other similar cause; reasonable payments for traveling expenses, or other expenses, incurred by an employee in the furtherance of his employer's interest and properly reimbursable by the employer; and other similar payments to an employee which are not made as compensation for his hours of employment;

(3) sums paid in recognition of services performed during a given period if either, (a) both the fact that payment is to be made and the amount of the payment are determined at the sole discretion of the employer at or near the end of the period and not pursuant to any prior contract, agreement, or promise causing the employee to expect such payments regularly; or (b) the payments are made pursuant to a bona fide profit-sharing plan or trust or bona fide thrift or savings plan, meeting the requirements of the Secretary of Labor set forth in appropriate regulation which he shall issue, having due regard among other relevant factors, to the extent to which the amounts paid to the employee are determined without regard to hours of work, production, or efficiency; or (c) the payments are talent fees (as such talent fees are defined and delimited by regulations of the Secretary) paid to performers, including announcers, on radio and television programs;

(4) contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for providing old-age,

retirement, life, accident, or health insurance or similar benefits for employees;

(5) extra compensation provided by a premium rate paid for certain hours worked by the employee in any day or workweek because such hours are hours worked in excess of eight in a day or in excess of the maximum workweek applicable to such employee under subsection (a) or in excess of the employee's normal working hours or regular working hours, as the case may be;

(6) extra compensation provided by a premium rate paid for work by the employee on Saturdays, Sundays, holidays, or regular days of rest, or on the sixth or seventh day of the workweek, where such premium rate is not less than one and one-half times the rate established in good faith for like work performed in nonovertime hours on other days; or

(7) extra compensation provided by a premium rate paid to the employee, in pursuance of an applicable employment contract or collective-bargaining agreement, for work outside of the hours established in good faith by the contract or agreement as the basic, normal, or regular workday (not exceeding eight hours) or workweek (not exceeding the maximum workweek applicable to such employee under subsection (a)), where such premium rate is not less than one and one-half times the rate established in good faith by the contract or agreement for like work performed during such workday or workweek.

[(e)] (f) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under subsection (a) if such employee is employed pursuant to a bona fide individual contract, or pursuant to an agreement made as a result of collective bargaining by representatives of employees, if the duties of such employee necessitate irregular hours of work, and the contract or agreement (1) specifies a regular rate of pay of not less than the minimum hourly rate provided in subsection (a) or (b) of section 6 (whichever may be applicable) and compensation at not less than one and one-half times such rate for all hours worked in excess of such maximum workweek, and (2) provides a weekly guaranty of pay for not more than sixty hours based on the rates so specified.

[f] (g) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of the maximum workweek applicable to such employee under such subsection if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, the amount paid to the employee for the number of hours worked by him such workweek in excess of the maximum workweek applicable to such employee under such subsection—

(1) in the case of an employee employed at piece rates, is computed at piece rates not less than one and one-half times the bona fide piece rates applicable to the same work when performed during nonovertime hours; or

(2) in the case of an employee performing two or more kinds of work for which different hourly or piece rates have been established, is computed at rates not less than one and one-half times such bona fide rates applicable to the same work when performed during nonovertime hours; or

(3) is computed at a rate not less than one and one-half times the rate established by such agreement or understanding as the basic rate to be used in computing overtime compensation thereunder: *Provided*, That the rate so established shall be authorized by regulation by the Secretary of Labor as being substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time;

and if (i) the employee's average hourly earnings for the workweek exclusive of payments described in paragraphs (1) through (7) of subsection **[(d)]** (e) are not less than the minimum hourly rate required by applicable law, and (ii) extra overtime compensation is properly computed and paid on other forms of additional pay required to be included in computing the regular rate.

[(g)](h) Extra compensation paid as described in paragraphs (5), (6), and (7) of subsection **[(d)]**(e) shall be creditable toward overtime compensation payable pursuant to this section.

[(h)](i) No employer shall be deemed to have violated subsection (a) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if (1) the regular rate of pay of such employee is in excess of one and one-half times the minimum hourly rate applicable to him under section 6, and (2) more than half his compensation for a representative period (not less than one month) represents commissions on goods or services. *In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.*

(j) No employer engaged in the operation of a hospital shall be deemed to have violated subsection (a) if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of fourteen consecutive workdays is accepted in lieu of the workweek of seven consecutive workdays for purposes of overtime computation and if, for his employment in excess of eight hours in any workday and in excess of eighty hours in such fourteen-day period, the employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed.

WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 8. (a) The policy of this Act with respect to industries or enterprises in Puerto Rico and the Virgin Islands engaged in commerce or in the production of goods for commerce is to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed in paragraph (1) of section 6(a) in each such industry. The Secretary of Labor shall from time to time convene an industry committee or committees, appointed pursuant to section 5, and any such industry committee shall from time to time recommend the minimum rate or rates of wages to be paid under section 6 by employers in Puerto or the Virgin Islands, or in Puerto Rico and the Virgin Islands, engaged in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce in any such industry or classifications therein. Minimum rates of wages established in accordance with this section which are not equal to the

minimum wage rate prescribed in paragraph (1) of section 6(a) shall be reviewed by such a committee once during each biennial period, beginning with the biennial period commencing July 1, 1958, except that the Secretary, in his discretion, may order an additional review during any such biennial period.

(b) Upon the convening of any such industry committee, the Secretary shall refer to it the question of the minimum wage rate or rates to be fixed for such industry. The industry committee shall investigate conditions in the industry and the committee, or any authorized subcommittee thereof, shall after due notice hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under this Act. The committee shall recommend to the Secretary the highest minimum wage rates for the industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry, and will not give any industry in Puerto Rico or in the Virgin Islands a competitive advantage over any industry in the United States outside of Puerto Rico and the Virgin Islands.

(c) The industry committee shall recommend such reasonable classifications within any industry as it determines to be necessary for the purpose of fixing for each classification within such industry the highest minimum wage rate (not in excess of that prescribed in paragraph (1) of section 6(a)) which (1) will not substantially curtail employment in such classification and (2) will not give a competitive advantage to any group in the industry, and shall recommend for each classification in the industry the highest minimum wage rate which the committee determines will not substantially curtail employment in such classification. In determining whether such classifications should be made in any industry, in making such classifications, and in determining the minimum wage rates for such classifications, no classifications shall be made, and no minimum wage rate shall be fixed, solely on a regional basis, but the industry committee shall consider among other relevant factors the following:

(1) competitive conditions as affected by transportation, living, and production costs;

(2) the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and

(3) the wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

No classification shall be made under this section on the basis of age or sex.

(d) The industry committee shall file with the Secretary a report containing its findings of fact and recommendations with respect to the matters referred to it. Upon the filing of such report, the Secretary shall publish such recommendations in the Federal Register and shall provide by order that the recommendations contained in such report shall take effect upon the expiration of 15 days after the date of such publication.

(e) Orders issued under this section shall define the industries and classifications therein to which they are to apply, and shall contain such terms and conditions as the Secretary finds necessary to carry out the purposes of such orders, to prevent the circumvention or

evasion thereof, and to safeguard the minimum wage rates established therein.

(f) Due notice of any hearing provided for in this section shall be given by publication in the Federal Register and by such other means as the Secretary deems reasonably calculated to give general notice to interested persons.

ATTENDANCE OF WITNESSES

SEC. 9. For the purpose of any hearing or investigation provided for in this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U.S.C., 1934 edition, title 15, secs. 49 and 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary of Labor and the industry committees.

COURT REVIEW

SEC. 10. (a) Any person aggrieved by an order of the Secretary issued under section 8 may obtain a review of such order in the United States Court of Appeals for any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within 60 days after the entry of such order a written petition praying that the order of the Secretary be modified or set aside in whole or in part. A copy of such petition shall forthwith be transmitted by the clerk of the court to the Secretary, and there upon the Secretary shall file in the court the record of the industry committee upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm, modify, or set aside such order in whole or in part, so far as it is applicable to the petitioner. The review by the court shall be limited to questions of law, and findings of fact by such industry committee when supported by substantial evidence shall be conclusive. No objection to the order of the Secretary shall be considered by the court unless such objection shall have been urged before such industry committee or unless there were reasonable grounds for failure so to do. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence may materially affect the result of the proceeding and that there were reasonable grounds for failure to adduce such evidence in the proceedings before such industry committee, the court may order such additional evidence to be taken before an industry committee and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. Such industry committee may modify the initial findings by reason of the additional evidence so taken, and shall file with the court such modified or new findings which if supported by substantial evidence shall be conclusive, and shall also file its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order. The court shall not grant any stay of the order unless the person complaining of such order shall file in court an undertaking with a surety or sureties satisfactory to the court for the payment to the employees affected by the order, in the event such order is affirmed, of the amount by which the compensation such employees are entitled to receive under the order exceeds the compensation they actually receive while such stay is in effect.

INVESTIGATIONS, INSPECTIONS, RECORDS, AND HOMEWORK REGULATIONS

SEC. 11. (a) The Secretary of Labor or his designated representatives may investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any industry subject to this Act, and may enter and inspect such places and such records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this Act, or which may aid in the enforcement of the provisions of this Act. Except as provided in section 12 and in subsection (b) of this section, the Secretary shall utilize the bureaus and divisions of the Department of Labor for all the investigations and inspections necessary under this section. Except as provided in section 12, the Secretary shall bring all actions under section 17 to restrain violations of this Act.

(b) With the consent and cooperation of State agencies charged with the administration of State labor laws, the Secretary of Labor may, for the purpose of carrying out his functions and duties under this Act, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may reimburse such State and local agencies and their employees for services rendered for such purposes.

(c) Every employer subject to any provision of this Act or of any order issued under this Act shall make, keep, and preserve such records of the persons employed by him and of the wages, hours, and other conditions and practices of employment maintained by him, and shall preserve such records for such periods of time, and shall make such reports therefrom to the Secretary as he shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this Act or the regulations or orders thereunder.

(d) The Secretary is authorized to make such regulations and orders regulating, restricting, or prohibiting industrial homework as are necessary or appropriate to prevent the circumvention or evasion of and to safeguard the minimum wage rate prescribed in this Act, and all existing regulations or orders of the Administrator relating to industrial homework are hereby continued in full force and effect.

CHILD LABOR PROVISIONS

SEC. 12. (a) No producer, manufacturer, or dealer shall ship or deliver for shipment in commerce any goods produced in an establishment situated in the United States in or about which within thirty days prior to the removal of such goods therefrom any oppressive child labor has been employed: *Provided*, That any such shipment or

delivery for shipment of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer, manufacturer, or dealer that the goods were produced in compliance with the requirements of this section, and who acquired such goods for value without notice of any such violation, shall not be deemed prohibited by this subsection: *And provided further*, That a prosecution and conviction of a defendant for the shipment or delivery for shipment of any goods under the conditions herein prohibited shall be a bar to any further prosecution against the same defendant for shipments or deliveries for shipment of any such goods before the beginning of said prosecution.

(b) The Secretary of Labor, or any of his authorized representatives, shall make all investigations and inspections under section 11(a) with respect to the employment of minors, and, subject to the direction and control of the Attorney General, shall bring all actions under section 17 to enjoin any act or practice which is unlawful by reason of the existence of oppressive child labor, and shall administer all other provisions of this Act relating to oppressive child labor.

(c) No employer shall employ any oppressive child labor in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce.

EXEMPTIONS

SEC. 13. (a) The provisions of sections 6 and 7 shall not apply with respect to—

(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act, except that an employee of a retail or service establishment shall not be excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in his workweek which he devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40 per centum of his hours worked in the workweek are devoted to such activities); or

[(2) any employee employed by any retail or service establishment, more than 50 per centum of which establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, if such establishment—

[(i) is not in an enterprise described in section 3(s), or

[(ii) is in such an enterprise and is a hotel, motel, restaurant, or motion picture theater; or is an amusement or recreational establishment that operates on a seasonable basis, or

[(iii) is in such an enterprise and is a hospital, or an institution which is primarily engaged in the care of the sick, the aged, the mentally ill or defective, residing on the premises of such institution, or a school for physically or mentally handicapped or gifted children, or

[(iv) is in such an enterprise and has an annual dollar volume of sales (exclusive of excise taxes at the retail level which are separately stated) which is less than \$250,000.]

(2) *any employee employed by any retail or service establishment (except an establishment or employee engaged in laundering, cleaning, or repairing clothing or fabrics or an establishment engaged in the operation of a hospital, institution, or school described in section 3(s)(4)), if more than 50 per centum of such establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, and such establishment is not in an enterprise described in section 3(s) or such establishment has an annual dollar volume of sales which is less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated). A "retail or service establishment" shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or*

[(3) *any employee employed by any establishment engaged in laundering, cleaning, or repairing clothing or fabrics, more than 50 per centum of which establishment's annual dollar volume of sales of such services is made within the State in which the establishment is located: Provided, That 75 per centum of such establishment's annual dollar volume of sales of such services is made to customers who are not engaged in a mining, manufacturing, transportation, or communications business; or*]

(3) *any employee employed by an establishment which is an amusement or recreational establishment, if (A) it does not operate for more than seven months in any calendar year, or (B) during the preceding calendar year its average receipts for any six months of such year were not more than 33½ per centum of its average receipts for the other six months of such year; or*

(4) *any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: Provided, That more than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is made within the State in which the establishment is located; or*

(5) *any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee; or*

[(6) *any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a sharecrop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or*]

(6) *any employee employed in agriculture (A) if such employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred man-days of agricultural labor, (B) if such employee is the parent, spouse, child, or other member of his employer's immediate family, or (C) if such employee (i) is employed as a hand*

harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) commutes daily from his permanent residence to the farm on which he is so employed, and (iii) has been employed in agriculture less than thirteen weeks during the preceding calendar year, or (D) if such employee (other than an employee described in clause (C) of this subsection) (i) is sixteen years of age or under and is employed as a hand harvest laborer, is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment; (ii) is employed on the same farm as his parent or person standing in the place of his parent; and (iii) is paid at the same piece rate as employees over age sixteen are paid on the same farm; or (E) if such employee is principally engaged in the range production of livestock.

(7) any employee to the extent that such employee is exempted by regulations **[or order]**, order, or certificate of the Secretary issued under section 14; or

(8) any employee employed in connection with the publication of any weekly, semiweekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where **[printed and]** published or counties contiguous thereto; or

[(9)] any employee of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, not in an enterprise described in section 3(s)(2); or **]**

(9) any employee employed by an establishment which is a motion picture theater; or

[(10)] any individual employed within the area of production (as defined by the Secretary), engaged in handling, packing, storing, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products; or **]**

[(11)] (10) any switchboard operator employed by an independently owned public telephone company which has not more than seven hundred and fifty stations; or

[(12)] any employee of an employer engaged in the business of operating taxicabs; or **]**

[(13)] (11) any employee or proprietor in a retail or service establishment which qualifies as an exempt retail or service establishment under clause (2) of this subsection with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed \$500 a month; or

[(14)] (12) any employee employed as a seaman on a vessel other than an American vessel; or

[(15)] (13) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or

lumbering operations does not exceed **[twelve]** *eight during the year beginning February 1, 1967, and if the number of such employees does not exceed six beginning February 1, 1968, and thereafter; or*

[(16)] any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (A) is primarily employed during his workweek in agriculture by such farmer, and (B) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a)(1); or

[(17)] any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm: *Provided, That no more than five employees are employed in the establishment in such operations; or*

[(18)] any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities; or

[(19)] any employee of a retail or service establishment which is primarily engaged in the business of selling automobiles, trucks, or farm implements; or

[(20)] any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs; or **]**

[(21)] (14) any agricultural employee employed in the growing and harvesting of shade-grown tobacco who is engaged in the processing (including, but not limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling) of such tobacco, prior to the stemming process, for use as cigar wrapper tobacco **[; or]**.

[(22)] any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables. **]**

(b) The provisions of section 7 shall not apply with respect to—

(1) any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

(2) any employee of an employer subject to the provisions of part I of the Interstate Commerce Act; or

(3) any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act; or

(4) any employee employed in the canning, processing, marketing, freezing, curing, storing, packing for shipment, or distribut-

ing of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof; or

(5) any individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state; or

(6) any employee employed as a seaman; or

[(7) any employee of a street, suburban or interurban electric railway, or local trolley or motorbus carrier; or]

(7) *any driver, operator, or conductor employed by an employer whose annual gross volume of sales made or business done is less than \$1,000,000 (exclusive of excise taxes at the retail level which are separately stated), engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency; or*

[(8) any employee of a gasoline service station; or]

(8) *any employee employed by an establishment which is a hotel, motel, or restaurant; or*

(9) any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located (A) in a city or town of one hundred thousand population or less, according to the latest available decennial census figures as compiled by the Bureau of the Census, except where such city or town is part of a standard metropolitan statistical area, as defined and designated by the Bureau of the Budget, which has a total population in excess of one hundred thousand, or (B) in a city or town of twenty-five thousand population or less, which is part of such an area but is at least 40 airline miles from the principal city in such area; or

[(10) any employee of an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if (A) the annual gross volume of sales of such enterprise is not more than \$1,000,000 exclusive of excise taxes, and (B) more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and (C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale; or]

(10) *any salesman (other than partsman) or mechanic primarily engaged in selling or servicing automobiles, trailers, trucks, farm implements or aircraft if employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles to ultimate purchasers; or*

(11) any employee employed as a driver or drivers' helper making local deliveries, who is compensated for such employment on the basis of trip rates, or other delivery payment plan, if the Secretary shall find that such plan has the general purpose and effect of reducing hours worked by such employees to, or below, the maximum workweek applicable to them under section 7(a)[.]; or

(12) *any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop*

basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

(13) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (A) is primarily employed during his workweek in agriculture by such farmer, and (B) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a)(1); or

(14) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed in the establishment in such operations; or

(15) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities; or

(16) any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables; or

(17) any driver employed by an employer engaged in the business of operating taxicabs; or

(18) any employee employed by an establishment which is a hotel, motel, or restaurant; or is an institution (other than hospitals) primarily engaged in the care of the sick, the aged, the mentally ill, or defective who reside on the premises of such an institution; or

(19) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs.

[(c) The provisions of section 12 relating to child labor shall not apply with respect to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, or to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions.]

(c)(1) The provisions of section 12 relating to child labor shall not apply with respect to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed.

(2) No employee below the age of sixteen may be employed in agriculture in an occupation that the Secretary of Labor finds and declares to be particularly hazardous for the employment of children below age sixteen, except where such employee is employed by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person.

(3) *The provisions of section 12 relating to child labor shall not apply to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions.*

(d) The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer or to any homemaker engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths).

(e) The provisions of section 7 shall not apply with respect to employees for whom the Secretary of Labor is authorized to establish minimum wage rates as provided in section 6(a)(3), except with respect to employees for whom such rates are in effect; and with respect to such employees the Secretary may make rules and regulations providing reasonable limitations and allowing reasonable variations, tolerances, and exemptions to and from any or all of the provisions of section 7 if he shall find, after a public hearing on the matter, and taking into account the factors set forth in section 6(a)(3), that economic conditions warrant such action.

(f) The provisions of sections 6, 7, 11, and 12 shall not apply with respect to any employee whose services during the workweek are performed in a workplace within a foreign country or within territory under the jurisdiction of the United States other than the following: a State of the United States; the District of Columbia; Puerto Rico; the Virgin Islands; outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (ch. 345, 67 Stat. 462); American Samoa; Guam; Wake Island; [and the Canal Zone.] *Eniwetok Atoll; Kwajalein Atoll; Johnston Island; and the Canal Zone.*

LEARNERS, APPRENTICES, AND HANDICAPPED WORKERS;
STUDENTS; AND MANAGEMENT TRAINEES

SEC. 14. (a) The Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for (1) the employment of learners, of apprentices, *and* of messengers employed primarily in delivering letters and messages[, and of full-time students outside of their school hours in any retail or service establishment: *Provided, That such employment is not of the type ordinarily given to a full-time employee*], under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe, and (2) *subject to the special provisions in subsections (b) and (c)* the employment of individuals whose earning capacity is impaired by age, or physical or mental deficiency or injury, under special certificates issued by the Secretary, at such wages lower than the minimum wage applicable under section 6 and for such period as shall be fixed in such certificates.

(b) *Handicapped workers employed in sheltered workshops shall be paid wages commensurate with those paid nonhandicapped workers in industry in the vicinity for essentially the same type, quantity, and quality of work, but not less than the wages specified in the special certificates issued under clause (2) of subsection (a), subject to the provisions of this subsection and subsection (c): Provided, That effective January 1, 1967, no certificate shall be issued under clause (2) of subsection (a) which*

shall permit the payment to handicapped workers employed in sheltered workshops of wages at a rate lower than 50 per centum of the minimum wage applicable under section 6 of this Act; beginning January 1, 1968, such wages shall not be less than 75 per centum of such minimum wage; and beginning January 1, 1969, such wages shall not be less than the minimum wage in effect under section 6 of this Act; but in no instance shall handicapped workers employed in sheltered workshops receiving wages in excess of the prescribed minimums be reduced to the prescribed minimums.

The Secretary, pursuant to regulations which he shall prescribe, may issue special certificates for less than the minimum wage requirements under this subsection in proportion to the worker's productivity:

(1) In the case of handicapped workers engaged in training or evaluation programs, where their work is incidental to such programs, and such regulations shall specify time limitations and other criteria which shall be conditions for the issuance of such special certificates; and

(2) Under exceptional circumstances, and such regulations shall specify and describe the term "exceptional circumstances" which shall include multihandicapped individuals and those individuals so severely impaired that they are unable to engage in competitive employment.

The State agency administering or supervising the administration of vocational rehabilitation services shall certify to the Secretary those handicapped individuals for whom special certificates may be issued under (1) and (2) above, and said certifications shall be reviewed annually by the Secretary.

(c) **WORK ACTIVITY CENTERS.**—The Secretary shall establish a new classification which shall be called work activity centers, and which shall be distinguished from the sheltered workshops covered by subsections (a) and (b) of this section in that said centers shall be planned and designed exclusively for handicapped workers whose physical or mental impairment is so severe as to make their productive capacity inconsequential.

The Secretary is directed to conduct a study by January 1, 1968, to establish a formula for determining equitable compensation for handicapped workers employed in work activity centers.

Only handicapped workers whose productive capacity has been evaluated and certified to the Secretary as inconsequential by the State agency administering or supervising the administration of vocational rehabilitation services shall be employed in a work activity center, and such certifications shall be reviewed annually by the Secretary.

Pending the development of such formula, the Secretary is directed to approve special certificates for less than the minimums applicable under section 6, or subsections (a) and (b) of this section.

PROHIBITED ACTS

SEC. 15. (a) After the expiration of one hundred and twenty days from the date of enactment of this Act, it shall be unlawful for any person—

(1) to transport, offer for transportation, ship, deliver, or sell in commerce, or to ship, deliver, or sell with knowledge that shipment or delivery or sale thereof in commerce is intended, any goods in the production of which any employee was employed in violation of section 6 or section 7, or in violation of any regula-

tion or order of the Secretary of Labor issued under section 14; except that no provision of this Act shall impose any liability upon any common carrier for the transportation in commerce in the regular course of its business of any goods not produced by such common carrier, and no provision of this Act shall excuse any common carrier from its obligation to accept any goods for transportation; and except that any such transportation, offer, shipment, delivery, or sale of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer that the goods were produced in compliance with the requirements of the Act, and who acquired such goods for value without notice of any such violation, shall not be deemed unlawful;

(2) to violate any of the provisions of section 6 or section 7, or any of the provisions of any regulation or order of the Secretary issued under section 14;

(3) to discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding, or has served or is about to serve on an industry committee;

(4) to violate any of the provisions of section 12;

(5) to violate any of the provisions of section 11(c) or any regulation or order made or continued in effect under the provisions of section 11(d), or to make any statement, report, or record filed or kept pursuant to the provisions of such section or of any regulation or order thereunder, knowing such statement, report, or record to be false in a material respect.

(b) For the purposes of subsection (a)(1) proof that any employee was employed in any place of employment where goods shipped or sold in commerce were produced, within ninety days prior to the removal of the goods from such place of employment, shall be prima facie evidence that such employee was engaged in the production of such goods.

PENALTIES

SEC. 16. (a) Any person who willfully violates any of the provisions of section 15 shall upon conviction thereof be subject to a fine of not more than \$10,000, or to imprisonment for not more than six months, or both. No person shall be imprisoned under this subsection except for an offense committed after the conviction of such person for a prior offense under this subsection.

(b) Any employer who violates the provisions of section 6 or section 7 of this Act shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages. Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. The

right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary of Labor in an action under section 17 in which restraint is sought of any further delay in the payment of unpaid minimum wages, or the amount of unpaid overtime compensation, as the case may be, owing to such employee under section 6 or section 7 of this Act by an employer liable therefor under the provisions of this subsection.

(c) The Secretary of Labor is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 6 or section 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. When a written request is filed by any employee with the Secretary claiming unpaid minimum wages or unpaid overtime compensation under section 6 or section 7 of this Act, the Secretary may bring an action in any court of competent jurisdiction to recover the amount of such claim: *Provided*, That this authority to sue shall not be used by the Secretary in any case involving an issue of law which has not been settled finally by the courts, and in any such case no court shall have jurisdiction over such action or proceeding initiated or brought by the Secretary if it does involve any issue of law not so finally settled. The consent of any employee to the bringing of any such action by the Secretary, unless such action is dismissed without prejudice on motion of the Secretary, shall constitute a waiver by such employee of any right of action he may have under subsection (b) of this section for such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. Any sums thus recovered by the Secretary on behalf of an employee pursuant to this subsection shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sums not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts. In determining when an action is commenced by the Secretary under this subsection for the purposes of the [two year statute] *statutes* of limitations provided in section 6(a) of the Portal-to-Portal Act of 1947, it shall be considered to be commenced in the case of any individual claimant on the date when the complaint is filed if he is specifically named as a party plaintiff in the complaint, or if his name did not so appear, on the subsequent date on which his name is added as a party plaintiff in such action.

(d) In any action or proceeding commenced prior to, on, or after the date of enactment of this subsection, no employer shall be subject to any liability or punishment under this Act or the Portal-to-Portal Act of 1947 on account of his failure to comply with any provision or provisions of such Acts (1) with respect to work heretofore or hereafter performed in a workplace to which the exemption in section 13(f) is applicable, (2) with respect to work performed in Guam, the Canal Zone, or Wake Island before the effective date of this amendment of subsection (d), or (3) with respect to work performed in a possession named in section 6(a)(3) at any time prior to the establish-

ment by the Secretary, as provided therein, of a minimum wage rate applicable to such work.

INJUNCTION PROCEEDINGS

SEC. 17. The district courts, together with the United States District Court for the District of the Canal Zone the District Court of the Virgin Islands, and the District Court of Guam shall have jurisdiction, for cause shown, to restrain violations of section 15, including in the case of violations of section 15(a)(2) the restraint of any withholding of payment of minimum wages or overtime compensation found by the court to be due to employees under this Act (except sums which employees are barred from recovering, at the time of the commencement of the action to restrain the violations, by virtue of the provisions of section 6 of the Portal-to-Portal Act of 1947).

RELATION TO OTHER LAWS

SEC. 18. (a) No provision of this Act or of any order thereunder shall excuse noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this Act or a maximum workweek lower than the maximum workweek established under this Act, and no provision of this Act relating to the employment of child labor shall justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established under this Act. No provision of this Act shall justify any employer in reducing a wage paid by him which is in excess of the applicable minimum wage under this Act, or justify any employer in increasing hours of employment maintained by him which are shorter than the maximum hours applicable under this Act.

(b) *Notwithstanding any other provision of this Act (other than section 13(f)) or any other law, any employee—*

(1) described in paragraph (7) of section 202 of the Classification Act of 1949 (5 U.S.C. 1082(7)) whose compensation is required to be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates, and any Federal employee in the Canal Zone engaged in employment of the kind described in such paragraph (7), or

(2) described in section 7474 of title 10, United States Code, whose rates of wages are established to conform, as nearly as is consistent with the public interest, with those of private establishments in the immediate vicinity, or

(3) employed in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces,
shall have his basic compensation fixed or adjusted at a wage rate which is not less than the appropriate wage rate provided for in section 6(a)(1) of this Act (except that the wage rate provided for in section 6(b) shall apply to any employee who performed services during the workweek in a work place within the Canal Zone), and shall have his overtime compensation set at an hourly rate not less than the overtime rate provided for in section 7(a) of this Act.

SEPARABILITY OF PROVISIONS

SEC. 19. If any provision of this Act or the application of such provision to any person or circumstances is held invalid, the remainder of

the Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 6(a) OF THE PORTAL-TO-PORTAL ACT OF 1947

SEC. 6. STATUTE OF LIMITATIONS.—Any action commenced on or after the date of the enactment of this Act to enforce any cause of action for unpaid minimum wages, unpaid overtime compensation, or liquidated damages, under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act—

(a) if the cause of action accrues on or after the date of the enactment of this Act—may be commenced within two years after the cause of action accrued, and every such action shall be forever barred unless commenced within two years after the cause of action accrued, *except that a cause of action arising out of a willful violation may be commenced within three years after the cause of action accrued;*

CHAPTER 119 OF TITLE 28 OF THE U.S. CODE

Chapter 119.—EVIDENCE; WITNESSES * * *

§ 1821. Per diem and mileage generally; subsistence.

【A witness attending an any court of the United States, or before a United States commissioner, or before any person authorized to take his deposition pursuant to any rule or order of a court of the United States, shall receive \$4 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 8 cents per mile for going from and returning to his place of residence.】 *A witness attending in any court of the United States, or before a United States commissioner, or before any person authorized to take his deposition pursuant to any rule or order of a court of the United States, at any time shall receive for each hour or fraction of an hour of such attendance, and for each hour or fraction of an hour necessarily occupied in going to and returning from the same, compensation at a rate equal to the minimum hourly wage rate prescribed at such time by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, but not less than \$4 per day for each day of such attendance or travel, and shall receive 8 cents per mile for going from and returning to his place of residence.* Regardless of the mode of travel employed by the witness, computation of mileage under this section shall be made on the basis of a uniform table of distances adopted by the Attorney General. Witnesses who are not salaried employees of the Government and who are not in custody and who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of \$8 per day for expenses of subsistence including the time necessarily occupied in going to and returning from the place of attendance: *Provided*, That in lieu of the mileage allowance provided for herein, witnesses who are required to travel between the Territories and possessions, or to and from the continental United States, shall be entitled to the actual expenses of travel at the lowest first-class rate available at the time of reservation for passage, by means of transportation employed: *Provided further*, That this section shall not apply to Alaska.

* * * * *

SUPPLEMENTAL VIEWS OF MR. JAVITS AND MR. WILLIAMS OF NEW JERSEY

CHILD LABOR IN AGRICULTURE

A. The problem

Almost two generations ago, this Nation finally outlawed a practice which had become a national scandal—industrial child labor. If anyone in this body has forgotten the practices which, at the turn of the century, built whole industries upon the endless toil of children not yet even in their teens, let him examine the following transcript of the testimony of 8-year-old Helen Susscak answering Pennsylvania Judge Gray's questions about her job in a textile mill in 1911:

JUDGE. Helen, what time do you go to work?

HELEN. Half after 6 evenin's.

JUDGE. When do you come home from the mill?

HELEN. Half after 6 mornin's.

JUDGE. How far do you live from the mill?

HELEN. I don't know. I guess it mostly takes an hour to git there.

JUDGE. And the inspector tells me it's across lonely fields exposed to storms that sweep down the valley. What's your pay, Helen?

HELEN. I gits 3 cents an hour, sir.

JUDGE. If my arithmetic is good that is almost 36 cents for a night's work. Well, now, we do indeed find the flesh and blood of little children coined into money.¹

But what we condemned with indignation over a generation ago in the textile mills and industrial plants of this Nation we continue to accept in an often equally oppressive form—agricultural child labor. There are the same long hours, the same negligible pay, the same backbreaking work, the same exposure to the elements, the lack of educational opportunity despite the nominal restrictions on working "during school hours"—all the same practices which deprive the child of a real childhood.

Recent hearings by the Senate Migratory Labor Subcommittee revealed case after case of children employed under circumstances closely resembling the textile mill conditions we outlawed so long ago.

For example, the following is the report of Miss Stockburger, chairman of the National Child Labor Committee, testifying in 1963 about her most recent trip to a migrant area:

When Don came to the school at 1 p.m., he had already worked in the fields from about 4:30 a.m. to 12:30. I asked how many beans he had picked. He replied, "\$6 worth—that's 300 pounds." Then my comment was, "Then you must be hungry. Come on, let's go eat lunch." Don

¹ U.S. Department of Labor, *Growth of Labor Law in the United States* 1 (1962).

looked up at me and answered, "Yes'm, I reckon as how I am. I ain't had no breakfast yet."

Then there was the 9-year-old girl who was found one hot July afternoon in a cabin ironing. In the course of the conversation she told of having been in the field all morning. When asked how she liked to work in the field she paused in her slow and deliberate strokes with the iron and with great vehemence said, "I hate it. I hate to pick beans. But I gotta earn my living."

How vividly I recall our dismay when a young mother of five children, all under 6, with whom we had worked for several years brought only her three youngest to the day care center. When asked about the two oldest boys who were 5 and 6, her answer was, "Oh, Billy and Johnny, I won't be leaving them with you this year. They're old enough to pick."²

In a few areas of the country, child labor has become almost a way of life. To cite one example, in the Willamette and Tuatation Valleys and the Hood River area in the heart of Oregon's strawberry area, in 1962 at the peak of the strawberry harvest season there were 66,610 workers employed—and of these, 65 percent (43,339) were under the age of 14, and 19 percent (12,000) were under the age of 12.³

But the problem is much more widespread—and infinitely more severe—throughout the areas of the country which employ migrant farm labor. Too often, farm communities make no provision for child day care centers. They need not bother, for the children are all in the fields—all day long—working alongside their parents. Often the permanent residents of such communities are only faintly aware that these children even exist at all.

B. The proposal

The proposal⁴ considered by the committee would (1) prohibit the employment of children in agriculture under the age of 12, except on their family farm or a neighboring farm; (2) bar agricultural employment of children between 12 and 14 except on farms within commuting distance of home, and then only with parental consent; and (3) permit the Secretary of Labor to prohibit children under 16 from working at "particularly hazardous" jobs in agriculture.

The committee accepted the "particularly hazardous" restriction (3), but, by a narrow margin, rejected the other provisions of the proposal.

In short, the committee's majority is willing to permit any kind of child labor in agriculture—no matter how long the hours, no matter how arduous the work, and no matter how young the child—as long as it is not "particularly hazardous." This decision, grounded in the view that there is a sharp difference between conditions in industry and agriculture, unless reversed by the Senate, could I feel, seriously prejudice many impoverished, undereducated, and forgotten children in escaping from an indefinite continuation of their deplorable condition.

² Hearings before the Senate Migratory Labor Subcommittee, 88th Cong., 1st sess., 104-105 (1963).

³ Special survey, U.S. Department of Labor (1962).

⁴ Amendment No. 606 to H.R. 13712, 89th Cong., 2d sess. (1966).

C. The controversy

Many Senators are already only too well aware of the crying need to extend child labor laws to agriculture, for the Senate has twice already—in 1961⁵ and 1963⁶—passed substantially the same measure which the committee by a narrow margin this time rejected. But for those who may not recall or may have missed the debates a few years ago, the following brief résumé of the arguments may prove enlightening.

We have been told—and no doubt will be told again this year—that the toil of children in the fields is somehow different from the sweat and strain of children in the textile mills—that it is somehow cleaner, somehow more fun, less dangerous, and really educational—or at least “healthy.” The opponents of child labor laws will say this even though the cold facts are that agriculture is the third most dangerous of all our Nation’s industries, exceeded only by mining and construction in the rate of death caused by on-the-job accidents.⁷ There is a restriction here against “particularly hazardous” occupations for children under 16, but have we the right to make that our standard for young children? The evidence strongly supports the conclusion that much more comprehensive protection is needed.

Nor can it be said that we are dealing with a few middle-class children gamboling in the fields, eating strawberries as they go, perhaps to pick up a few dollars for a Fourth of July weekend at the beach.

On the contrary, the child we seek to protect is among the most oppressed and deprived of our citizens—the child of a Mexican-American family living far below the poverty level, whose parents, for lack of a permanent residence, cannot even vote and therefore exert no political influence, whose parents have no legal right to collective bargaining. In sum, this is a child who desperately needs to be brought in from the fields and made a part of the society which the rest of our children take for granted.

But we have been told—as no doubt the opponents of this amendment will tell us again—that Federal law already prohibits child labor during school hours and therefore necessarily protects the educational opportunities of farm children. That is simply not the case. A combination of factors, including loose enforcement, particularly as to migrants, plus such practices as “crop vacations,”⁸ has resulted in a very substantial impairment of farmworker education.

Secretary Wirtz, testifying before the Migratory Labor Subcommittee last year, reported:

The degree of difficulty in this situation is, even under the school regulations which we have, investigations which have been made by the Wage and Hour Divisions of the Department of Labor last year covering 2,562 farms disclosed that 7,972 minors under 16 illegally were employed during school hours.

⁵ S. 1123, 87th Cong., 1st sess. (1961).

⁶ S. 523, 88th Cong., 1st sess. (1963).

⁷ Hearings before the Senate Migratory Labor Subcommittee, 88th Cong., 1st sess. 32 (1963).

⁸ *Id.* at 31.

Twenty percent of that group, 1,578, were 9 years or younger. More than half, over 4,000, were 10 to 13 years of age.⁹

D. A growing consensus in support of the amendment

The fact of the matter is that a substantial segment of our agricultural economy—including organizations representing the growers themselves—has endorsed a child labor law for agriculture. The Vegetable Growers Association of America has called this proposal “a very good bill.”¹⁰ The National Council of Agricultural Employers, representing members in 35 States, including individual growers, farm and commodity organizations, and employer associations, has said that “it has no objection to this bill.”¹¹ In addition, of course, those citizens’ organizations most closely concerned with the problem have endorsed this proposal in much stronger terms. The National Advisory Committee on Farm Labor endorses this proposal as a “keystone in the war against poverty,”¹² the National Consumers League has described this measure as “long overdue,”¹³ and the National Council of Farmer Cooperatives supports this measure as essential to the protection of the health of farm children.¹⁴

This proposal is nothing new. The Senate has passed this bill before in even stronger form.

We ought not to look away now from the exploitation of children in agriculture—with all its destructive effects—at the very time when we propose to extend Federal minimum wage protection to other deprived groups in our society.

Can it really be said that these children need protection less than garage mechanics, busdrivers, or retail salesmen?

Can it really be said that 10-year-old children working for hours in the fields harvesting the food we eat are any the less exploited than children were 50 years ago manufacturing the clothes we wore?

The limitation on “particularly hazardous” occupations for child labor in agriculture, adopted by the committee, is a step in the right direction. But the evil in the sweatshops, textile mills, and other industries based on child labor in the last century was not just that they included certain “particularly hazardous” occupations, but that strenuous physical labor, on a regular full-time basis, was found to be inherently oppressive for young children.

In agriculture, as in industry, long ago, it is the same old practice—perhaps less noticed, but just as harmful—and it ought to be stopped.

JACOB K. JAVITS.

HARRISON A. WILLIAMS, Jr.

⁹ Hearings before the Senate Subcommittee on Migratory Labor, 89th Cong., 1st sess. 37 (1965). “In one area, local children were enrolled in school, but enrollment of migrants was postponed for 3 weeks so they could harvest cucumbers. Still another State issued special permits to economically deprived children, those who needed education above all else, excusing them from school to pick fruit.” *Id.* at 61.

¹⁰ *Id.* at 231. (See also *id.* at 130—National Apple Institute.)

¹¹ *Id.* at 139.

¹² *Id.* at 199.

¹³ *Id.* at 217.

¹⁴ *Id.* at 145–146.

INDIVIDUAL VIEWS OF MR. FANNIN

I am not opposed to the concept of a minimum wage and I support every measure which will, in my opinion, improve the economic welfare of American workers. I am not persuaded, however, that this bill in its present form constitutes such a measure.

I believe sound economic and fiscal policies which are the best insurance of a high level of general business activity will, in turn, assure profitable employment and adequate jobs for our citizens. Our past prosperity and the enormous expansion of our economy have developed under these sound principles.

This bill runs contrary to these principles and seems to proceed on the theory that it is a simple matter to legislate wages and that it is not necessary to pay heed to such basic factors as productivity, supply and demand, and competition. To ignore these principles in normal times is dangerous. But to do so now in a time of high inflationary pressures and sky-high Government expenditures is to gamble with the economic health of our country.

Today, everyone from the President to the so-called "man on the street" is alarmed over the growing threat of inflation to our economic well-being. The President has established guidelines in an effort to curb these pressures. Yet in the face of all this concern the amendments here proposed would force prices upward from 5 to 10 percent. These figures were revealed in a survey by the largest retail association in the country. Operators of 339 retail stores in 38 States say that price rises will be necessary to cope with the higher costs that would be forced upon them by this bill.

One of my principal objections to this bill is that it contemplates an increase to the \$1.60 minimum at far too fast a rate, which could result in the loss of jobs. As reported by the committee this bill would provide for a 20-cent minimum wage increase to become effective on February 1, 1968, only 12 months after the economy has absorbed the 15-cent increase to \$1.40. This is an increase of over 14 percent. Contrast this with the 3.2 percent Presidential guidepost figure and the highly inflationary effect of this bill will be apparent. It should be clear that a minimum wage increase which is forced upon the economy at too fast a rate to be properly absorbed can only produce circumstances under which the American worker will have less dollar for dollar purchasing power than he has today.

In subcommittee, I offered an amendment which would have made the \$1.60 rate effective in February 1970. This would have spread the 14.3 percent increase over a 3-year period and would have produced a yearly increase of approximately 4.7 percent, a figure considerably less inflationary and more in line with the guidelines. This amendment was rejected with a minimum of discussion of its merits. In the full committee I offered an amendment which would have stretched the increase to \$1.60 over a 2-year period. This amendment would have produced a percentage increase of 7.2 percent, a figure considerably in excess of the guidelines but far easier on the economy

than the committee's 14.3 percent. But even this attempt to ease the adjustment of the higher rate was summarily rejected.

There appears below a chart showing the pattern of minimum wage increases and effective dates established in past amendments to this act. From this chart it will be seen that the 36-month stretchout is actually within the pattern but that the 12-month and even the 24-month periods break this historical pattern and are without precedent in almost 3 decades of minimum wage legislative history. In my opinion, the failure to remedy this highly inflationary stepup to the \$1.60 rate will be a serious mistake.

Another feature of this bill disturbs me. The committee lowered the present \$1 million volume-enterprise cutoff test to \$500,000 in 1967 and to \$250,000 in 1969. I offered an amendment in committee to hold this figure at \$500,000 because, in my opinion, the record clearly established that such an amendment was necessary to protect small business.

The amendment was not accepted. This was interesting in view of what this committee's report had to say in 1961 about the \$1 million volume-enterprise test which had just been approved. On page 44, Senate Report No. 145, 87th Congress, 1st session, there appears the following:

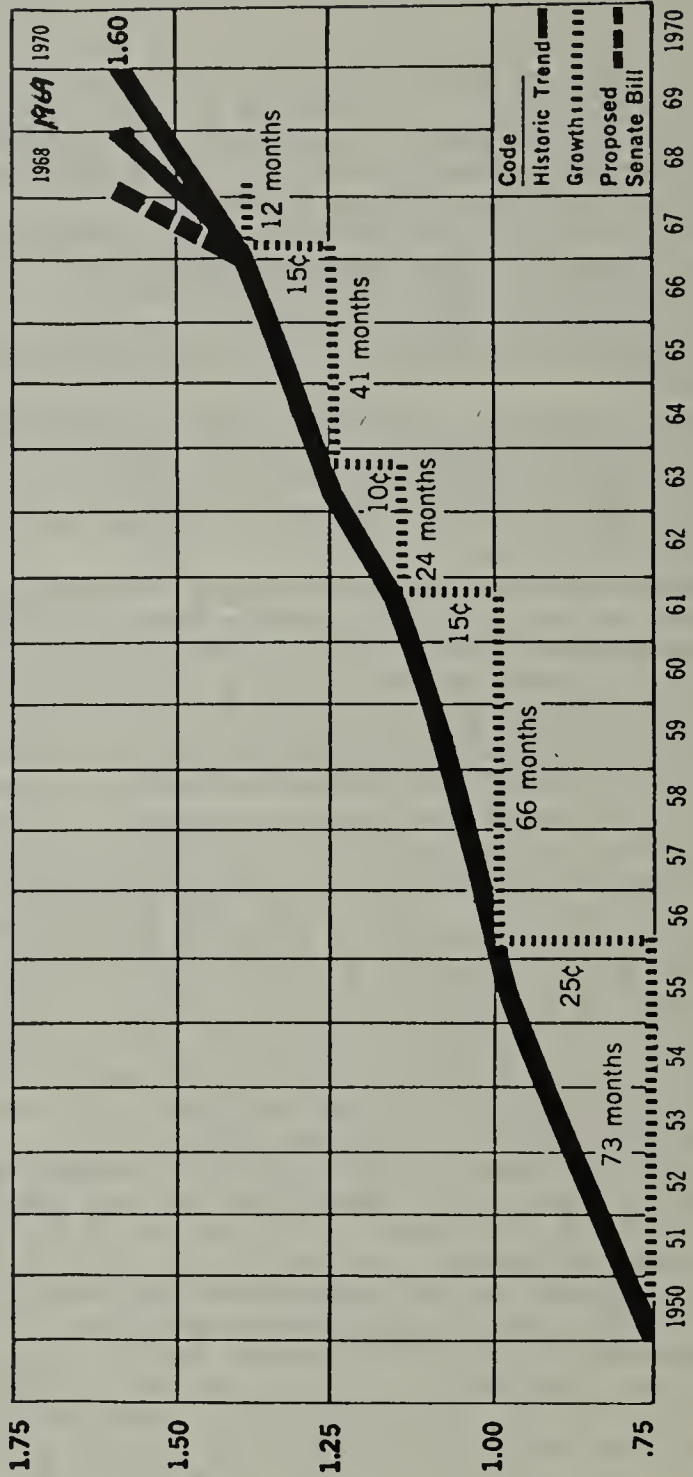
This volume of purchase and receipts of interstate goods, together with the gross annual sales volume of \$1 million or more exclusive of specified taxes, should provide more than adequate assurance that the newly covered enterprises will be those *plainly engaged to a substantial extent in interstate commerce and should make it abundantly certain that no small local business will be affected.* [Emphasis added.]

The present bill, which cover enterprises doing an annual volume of \$500,000 or more in 1967, and which would extend this coverage to those enterprises doing more than \$250,000 in 1969 departs substantially from the principles quoted above. Is it possible that in the short space of 5 years our opinions on this vital point have changed 75 percent? Is it now felt that a small store with, say, six or eight employees, should be subject to the voluminous provisions of the Fair Labor Standards Act? That the proprietors of these stores should have to try to cope with the restrictions set forth in some 300 pages of rules, regulations and interpretations that accompany the act is certainly beyond the realm of practicality.

The proposed coverage brings small local business immediately into coverage. There are no exact figures on how many retail establishments would be affected by the bill, but there are definite indications that the number is substantial.

The 1963 Census of Business reports that there were 24,600 single-unit retail establishments doing between \$500,000 and \$1 million. These independent individual stores were owned or operated by a single proprietor, partnerships, or corporation, but were not connected with any other store. In the category between \$300,000 and \$500,000 there were 37,500 single-unit stores. Thus we have a minimum of 62,100 single-unit stores which would be affected by the provisions of the bill. To this number could be added stores doing between \$250,000 and \$300,000—for which the census provides no breakdown, and a number of small retail, multiunit enterprises—two, three or four stores for the most part, whose combined volume would be sub-

MINIMUM WAGE TREND



stantially less than \$1 million. The number of employees involved (Bureau of Labor Statistics) is approximately 960,000.

This bill would force a 60-percent increase in the legal minimum wage in the short period from 1967 to 1971 for some of the smallest stores in the Nation. Even those stores presently covered would find their profits either drastically reduced or disappearing entirely. In fact, at the \$1.60 rate, 42 percent of the stores indicate that they would be operating at a loss of varying degrees, even though steps were taken to reduce operating expenses.

Even raising prices will not solve all the problems. Businessmen state they will have to reduce their work forces substantially and even then will be faced with the grave problem of whether or not they can remain in business.

Higher prices, fewer jobs, and the curtailment of small business in this country might be an oversimplification of the end results of the proposals contained in this report, but the fact remains this is what may happen.

If we are concerned with the devastating effects of inflation, the plight of the unskilled and untrained worker, and the survival of the small businessman, and if we are interested in preserving the urban areas of our cities and towns, then we must provide for excluding from the act the smaller enterprises. In my opinion a cutoff volume enterprise test of \$500,000 is a reasonable compromise between existing law and the committee's proposal.

Without the amendments I have suggested, this bill may well contribute to increased living costs and more unemployment among the unskilled—the exact opposite of what all of us are trying to achieve.

One final point. I am concerned about the committee's action with respect to the operation of the Nation's sheltered workshops for handicapped people. At the very time our country is doing everything it can to offer more opportunities to the physically and mentally handicapped, to bring them into the productive work force of the Nation, we now are asked to approve legislation which will set the whole workshop effort back many years.

The vast majority of organizations which operate these special workshops are violently opposed to this legislation. The committee members received voluminous mail from the Goodwill Industries and other respected organizations, nearly all of it urging that these provisions on wages in workshops for our handicapped people be deleted.

These workshops are operated for the most part by local voluntary groups. They represent thousands of local leaders who have a sense of civic responsibility and a desire to help severely disabled people who have no place else to turn. These are nonprofit groups; they cannot pass higher wages along to the consumer. If we pass this legislation, we will force to the wall many fine local workshops whose only mission in life is to help people in distress. After that we can expect to pay for our mistake in the form of more Federal funds to care for these people whose work opportunities have been destroyed. I am hopeful that the committee's action here will be reversed.

PAUL FANNIN.

ADDITIONAL VIEWS OF MR. JAVITS, MR. PROUTY, MR.
MURPHY, AND MR. GRIFFIN

AGE DISCRIMINATION IN EMPLOYMENT

We very much regret that our amendment to the bill barring age discrimination in employment was rejected by the committee. The amendment would have added a new title to the Fair Labor Standards Act, placing enforcement of the age discrimination ban within the Wage and Hour Division of the Department of Labor, which presently enforces age provisions affecting child labor, subject to judicial review.

A major and scarcely touched area of difficulty is the problem of the unemployed older worker who faces grave difficulties in finding a new job in spite of considerable skill and maturity. Here, there is an urgent need for some effective effort to remove the two major barriers which the unemployed worker in his middle and older years must overcome:

1. Arbitrary and unjust age limits on hiring, imposed by employers through prejudice or misunderstanding; and
2. Insufficient skills or education to qualify for entry into the increasingly technological job market of today.

Momentum for positive action on age discrimination in employment has been steadily growing. Executive Order 11141 issued on February 12, 1964, has made it public policy to ban discrimination because of age in employment under Federal contract, except upon the basis of a bona fide employment qualification, a retirement plan, or statutory bar. Twenty States and Puerto Rico have adopted laws prohibiting age discrimination in employment. Over half of these laws have been passed since 1960; all but three since 1955. Under these measures, the States have had broad success in reducing age discrimination and expanding job opportunities for older workers. The major hindrance to further progress has been limitation on staff and funds.

Despite the existence of State laws and last year's Executive order on Federal employment, much more needs to be done. The steps already taken must be extended to cover the entire Nation, so that age discrimination can be fought universally and effectively. In June 1965 the Congress received a report on age discrimination in employment from the Secretary of Labor as required by section 715 of the Civil Rights Act of 1964. The Secretary's report concluded as follows:

There is persistent and widespread use of age limits in hiring that in a great many cases can be attributed only to arbitrary discrimination against older workers on the basis of age and regardless of ability. The use of these age limits continues despite years of effort to reduce this type of discrimination through studies, information and general education undertaken by the Federal Government and many

States, as well as by nonprofit and employer and labor organizations.

The possibility of new nonstatutory means of dealing with such arbitrary discrimination has been explored. That area is barren.

State experience with statutes prohibiting discrimination in employment on the basis of age indicates that such practice can be reduced by a well-administered and well-enforced statute, coupled with an educational program. It is clear from this experience that an educational program to promote hiring on the basis of individual merit is far more effective when provided for by statute.

The most effective way to accomplish this is to make it an unlawful employment practice under the Fair Labor Standards Act to discriminate unjustly on account of age. Our amendment would give the Administrator of the Wages and Hour Division of the Labor Department authority to enforce prohibitions against arbitrary age discrimination in employment. It would integrate into the Fair Labor Standards machinery enforcement against age discrimination. The Administrator would be made responsible for investigating complaints of age discrimination in employment, and for negotiating or compelling redress where complaints are well founded. This procedure would fully effectuate Secretary Wirtz' recommendation that—

The elimination of arbitrary age limits on employment will proceed much more rapidly if the Federal Government declares, clearly and unequivocally, and implements, so far as is practical, a national policy with respect to hiring on the basis of ability rather than age.

The Secretary's report sent forth the scope and complexity of the problem, concluded that it can be solved, and cites the success of State laws against age discrimination in employment. With regard to skills and education, the report called for increased efforts, under the Manpower Development and Training Act and other existing training programs, to upgrade, retrain, and counsel older workers to enable them to adjust successfully to the organization and skills requirements of modern industry.

Expanded training and counseling, however, will avail them little unless the other more grievous barrier to employment for older workers—age discrimination on the part of employers—is stricken down. The imposition of arbitrary age limits on hiring, by which many companies refuse to hire any worker above a certain age—regardless of his often considerable abilities or qualifications—is the most serious, the most wasteful, and the least justifiable aspect of the problem, and is a practice regrettably widespread in this country. In the words of Secretary Wirtz' report:

An unmeasured but significant proportion of the age limitations presently in effect are arbitrary in the sense that they have been established without any determination of their actual relevance to job requirements, and are defended on grounds apparently different from their actual explanation.

Although lack of physical capacity is the most frequently cited reason for rigid age limits, many considerations tend to invalidate the idea that any useful purpose is served by such rigid restrictions. They include the wide variation of age limits for comparable jobs, the general lack of statistical studies in justification of such limits, and the fact that many responsible employers hire workers for jobs from which they would have been barred by other employers solely because of age.

In a nation which is more and more oriented toward meeting the needs of the young, we must not neglect the ever-expanding population of older workers who have the capacity to be productive, valuable members of the national economy, but who cannot find a job. They should be given adequate scope for their skills and their experience.

JACOB K. JAVITS.
GEORGE MURPHY.
WINSTON L. PROUTY.
ROBERT P. GRIFFIN.



Calendar No. 1452

89TH CONGRESS
2D SESSION

H. R. 13712

[Report No. 1487]

IN THE SENATE OF THE UNITED STATES

MAY 27, 1966

Read twice and referred to the Committee on Labor and Public Welfare

AUGUST 23, 1966

Reported by Mr. YARBOROUGH, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act may be cited as the "Fair Labor Standards
- 4 Amendments of 1966".

TITLE I—DEFINITIONS

TIPS

SEC. 101. (a) Section 3(m) of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new sentence: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 45 per centum of the applicable minimum wage rate, except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount."

(b) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"(t) 'Tipped employee' means any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips."

DEFINITION OF ENTERPRISE

SEC. 102. (a) Section 3(r) of such Act is amended by adding at the end thereof the following: "For purposes of

1 this subsection, the activities performed by any person or
2 persons—

3 “(1) in connection with the operation of a hos-
4 pital, an institution primarily engaged in the care of the
5 sick, the aged, the mentally ill or defective who reside
6 on the premises of such institution, a school for mentally
7 handicapped or gifted children, an elementary or sec-
8 ondary school, or an institution of higher education (re-
9 gardless of whether or not such hospital, institution or
10 school is public or private or operated for profit or not
11 for profit), or

12 “(2) in connection with the operation of a street,
13 suburban or interurban electric railway, or local trolley
14 or motorbus carrier, if the rates and services of such rail-
15 way or carrier are subject to regulation by a State or
16 local agency (regardless of whether or not such rail-
17 way or carrier is public or private or operated for profit
18 or not for profit),

19 shall be deemed to be activities performed for a business
20 purpose.”

21 (b) Section 3(d) of such Act is amended by inserting
22 after “of a State” the following: “(except with respect to
23 employees of a State, or a political subdivision thereof, em-
24 ployed (1) in a hospital, institution, or school referred to in

1 the last sentence of subsection ~~(r)~~ of this section, or ~~(2)~~ in
 2 the operation of a railway or carrier referred to in such
 3 sentence)".

4 ~~(e)~~ Section 3~~(s)~~ of such Act is amended to read as
 5 follows:

6 "~~(s)~~ 'Enterprise engaged in commerce or in the pro-
 7 duction of goods for commerce' means an enterprise which
 8 has employees engaged in commerce or in the production of
 9 goods for commerce, including employees handling, selling,
 10 or otherwise working on goods that have been moved in or
 11 produced for commerce by any person, and which—

12 "~~(1)~~ during the period February 1, 1967, through
 13 January 31, 1969, is an enterprise whose annual gross
 14 volume of sales made or business done is not less than
 15 \$500,000 (exclusive of excise taxes at the retail level
 16 which are separately stated) or is a gasoline service
 17 establishment whose annual gross volume of sales is not
 18 less than \$250,000 (exclusive of excise taxes at the
 19 retail level which are separately stated); and beginning
 20 February 1, 1969, is an enterprise whose annual gross
 21 volume of sales made or business done is not less than
 22 \$250,000 (exclusive of excise taxes at the retail level
 23 which are separately stated);

24 "~~(2)~~ is engaged in laundering, cleaning, or re-
 25 pairing clothing or fabrics;

1 ~~“(3)~~ is engaged in the business of construction
2 or reconstruction, or both; or

3 ~~“(4)~~ is engaged in the operation of a hospital, an
4 institution primarily engaged in the care of the sick,
5 the aged, the mentally ill or defective who reside on the
6 premises of such institution, a school for mentally handi-
7 capped or gifted children, an elementary or secondary
8 school, or an institution of higher education (regardless
9 of whether or not such hospital, institution, or school is
10 public or private or operated for profit or not for profit).

11 Any establishment which has as its only regular employees
12 the owner thereof or the parent, spouse, child, or other mem-
13 ber of the immediate family of such owner shall not be con-
14 sidered to be an enterprise engaged in commerce or in the
15 production of goods for commerce or a part of such an en-
16 terprise, and the sales of such establishment shall not be
17 included for the purpose of determining the annual gross
18 volume of sales of any enterprise for the purpose of this
19 subsection.”

20 (d) Section 3 of such Act is amended by adding after
21 subsection (u) (added by section 103(b) of this Act) the
22 following new subsections:

23 “(v) ‘Elementary school’ means a day or residential
24 school which provides elementary education, as determined
25 under State law.

1 ~~“(w)~~ ‘Secondary school’ means a day or residential
 2 school which provides secondary education, as determined
 3 under State law.

4 AGRICULTURAL EMPLOYEES

5 SEC. 103. ~~(a)~~ Section 3(e) of such Act is amended
 6 to read as follows:

7 ~~“(e)~~ ‘Employee’ includes any individual employed by
 8 an employer, except that such term shall not, for the pur-
 9 poses of section 3(u) include—

10 ~~“(1)~~ any individual employed by an employer en-
 11 gaged in agriculture if such individual is the parent,
 12 spouse, child, or other member of the employer’s imme-
 13 diate family, or

14 ~~“(2)~~ any individual who is employed by an em-
 15 ployer engaged in agriculture if such individual ~~(A)~~ is
 16 employed as a hand harvest laborer and is paid on a
 17 piece rate basis in an operation which has been, and is
 18 customarily and generally recognized as having been,
 19 paid on a piece rate basis in the region of employment,
 20 ~~(B)~~ commutes daily from his permanent residence to the
 21 farm on which he is so employed, and ~~(C)~~ has been
 22 employed in agriculture less than thirteen weeks during
 23 the preceding calendar year.”

24 ~~(b)~~ Section 3 of such Act is further amended by add-

1 ing after subsection ~~(t)~~ ~~(added by section 101(b) of this~~
 2 ~~Act)~~ the following new subsection

3 “~~(u)~~ ‘Man-day’ means any day during any portion of
 4 which an employee performs any agricultural labor.”

5 ~~TITLE II—REVISION OF EXEMPTIONS~~

6 ~~HOTEL, RESTAURANT, AND RECREATIONAL ESTABLISH-~~
 7 ~~MENTS; HOSPITALS AND RELATED INSTITUTIONS~~

8 SEC. 201. ~~(a)~~ Section ~~13(a)(2)~~ of such Act is
 9 amended by striking out everything preceding “A ‘retail or
 10 service establishment’” and inserting in lieu thereof the
 11 following:

12 “~~(2)~~ any employee employed by any retail or
 13 service establishment ~~(except an establishment or em-~~
 14 ~~ployee engaged in laundering, cleaning, or repairing~~
 15 ~~clothing or fabrics or an establishment engaged in the~~
 16 ~~operation of a hospital, institution, or school described~~
 17 ~~in section 3(s)(4))~~, if more than 60 per centum of
 18 such establishment’s annual dollar volume of sales of
 19 goods or services is made within the State in which the
 20 establishment is located, and such establishment is not in
 21 an enterprise described in section 3(s) or such establish-
 22 ment has an annual dollar volume of sales which is less
 23 than \$250,000 ~~(exclusive of excise taxes at the retail~~
 24 ~~level which are separately stated).~~”

1 ~~(b) (1)~~ Section 13~~(b)~~ of such Act is amended by in-
 2 serting after paragraph ~~(7)~~ the following new paragraph
 3 in lieu of the paragraph repealed by section 211 of this
 4 Act:

5 ~~“(8)~~ any employee employed by an establishment
 6 which is a hotel, motel, or restaurant; or”.

7 ~~(2)~~ Section 13~~(a)~~ of such Act is amended by inserting
 8 after paragraph ~~(2)~~ the following new paragraph in lieu of
 9 the paragraph repealed by section 202 of this Act:

10 ~~“(3)~~ any employee employed by an establish-
 11 ment which is an amusement or recreational establish-
 12 ment, if ~~(A)~~ it does not operate for more than seven
 13 months in any calendar year, or ~~(B)~~ during the preced-
 14 ing calendar year, its average receipts for any six months
 15 of such year were not more than $33\frac{1}{3}$ per centum of its
 16 average receipts for the other six months of such year;
 17 or”.

18 LAUNDRY AND CLEANING ESTABLISHMENTS

19 SEC. 202. Section 13~~(a)~~ ~~(3)~~ of such Act is repealed.

20 AGRICULTURAL EMPLOYEES

21 SEC. 203. ~~(a)~~ Section 13~~(a)~~ ~~(6)~~ of such Act is amended
 22 to read as follows:

23 ~~“(6)~~ any employee employed in agriculture ~~(A)~~ if
 24 such employee is employed by an employer who did not,
 25 during any calendar quarter during the preceding

1 calendar year, use more than five hundred man-days
 2 of agricultural labor, ~~(B)~~ if such employee is the parent,
 3 spouse, child, or other member of his employer's imme-
 4 diate family, or ~~(C)~~ if such employee ~~(i)~~ is employed
 5 as a hand harvest laborer and is paid on a piece rate
 6 basis in an operation which has been, and is customarily
 7 and generally recognized as having been, paid on a piece
 8 rate basis in the region of employment, ~~(ii)~~ commutes
 9 daily from his permanent residence to the farm on which
 10 he is so employed, and ~~(iii)~~ has been employed in agri-
 11 culture less than thirteen weeks during the preceding
 12 calendar year, or ~~(D)~~ if such employee's wage rate is
 13 established by the Secretary of Agriculture under sec-
 14 tion ~~301(c)(1)~~ of the Sugar Act of 1948; or".

15 ~~(b)~~ Section ~~13(a)(16)~~ of such Act (agricultural em-
 16 ployees employed in livestock auctions) is repealed.

17 ~~(c)~~ Section ~~13(b)~~ of such Act is amended—

18 ~~(A)~~ by striking out the period at the end of para-
 19 graph ~~(11)~~ and inserting in lieu thereof “; or”, and

20 ~~(B)~~ by adding at the end of paragraph ~~(11)~~ the
 21 following new paragraphs:

22 “~~(12)~~ any employee employed in agriculture or in
 23 connection with the operation or maintenance of ditches,
 24 canals, reservoirs, or waterways, not owned or operated

1 for profit, or operated on a sharecrop basis, and which
 2 are used exclusively for supply and storing of water for
 3 agricultural purposes; or

4 “~~(13)~~ any employee with respect to his employ-
 5 ment in agriculture by a farmer, notwithstanding other
 6 employment of such employee in connection with live-
 7 stock auction operations in which such farmer is engaged
 8 as an adjunct to the raising of livestock, either on his
 9 own account or in conjunction with other farmers, if
 10 such employee ~~(A)~~ is primarily employed during his
 11 workweek in agriculture by such farmer, and ~~(B)~~ is
 12 paid for his employment in connection with such live-
 13 stock auction operations at a wage rate not less than
 14 that prescribed by section 6(a)(1); or”.

15 AGRICULTURAL PROCESSING EMPLOYEES

16 SEC. 204. ~~(a)~~ Sections ~~13(a)(10)~~ ~~(employees en-~~
 17 ~~gaged in handling and processing of agricultural, horticul-~~
 18 ~~tural, and dairy products);~~ ~~13(a)(17)~~ ~~(country elevator~~
 19 ~~employees);~~ ~~13(a)(18)~~ ~~(cotton ginning employees);~~ and
 20 ~~13(a)(22)~~ ~~(fruit and vegetable transportation employees)~~
 21 of such Act are repealed.

22 ~~(b)~~ Section ~~13(b)~~ of such Act is amended by adding
 23 after paragraph ~~(13)~~ ~~(added by section 203(c) of this Act)~~
 24 the following new paragraphs:

25 “~~(14)~~ any employee employed within the area of

production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed in the establishment in such operations; or

“(15) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities; or

“(16) any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables; or”.

(e) Subsection (e) of section 7 of such Act is amended to read as follows:

“(e) For a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, any employer may employ any employee for a workweek in excess

1 of that specified in subsection ~~(a)~~ without paying the com-
 2 pensation for overtime employment prescribed in such sub-
 3 section if such employee ~~(1)~~ is employed by such employer
 4 in an industry ~~(other than an industry described in subsec-~~
 5 ~~tion (d))~~ found by the Secretary to be of a seasonal nature,
 6 and ~~(2)~~ receives compensation for employment by such
 7 employer in excess of ten hours in any workday, or for
 8 employment by such employer in excess of forty-eight hours
 9 in any workweek, as the case may be, at a rate not less
 10 than one and one-half times the regular rate at which he
 11 is employed.

12 “~~(d)~~ For a period or periods of not more than four-
 13 teen workweeks in the aggregate in any calendar year,
 14 any employer may employ any employee for a workweek
 15 in excess of that specified in subsection ~~(a)~~ without paying
 16 the compensation for overtime employment prescribed in
 17 such subsection, if such employee—

18 “~~(1)~~ is employed by such employer in an enter-
 19 prise which is in an industry found by the Secretary—

20 “~~(A)~~ to be characterized by marked annually
 21 recurring seasonal peaks of operation at the places
 22 of first marketing or first processing of agricul-
 23 tural or horticultural commodities from farms if
 24 such industry is engaged in the handling, packing,
 25 preparing, storing, first processing, or canning of

any perishable agricultural or horticultural commodities in their raw or natural state, or

~~“(B) to be of a seasonal nature and engaged in the handling, packing, storing, preparing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, and~~

~~“(2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.”~~

~~(d) (1) Subsections (d), (e), (f), (g), and (h) of section 7 of such Act are redesignated as subsections (e), (f), (g), (h), and (i), respectively.~~

~~(2) Subsections (g) and (h) of such section 7 (as so redesignated by paragraph (1) of this subsection) are each amended by striking out “subsection (d)” and inserting in lieu thereof “subsection (e)”.~~

SMALL NEWSPAPERS

SEC. 205. Section 13(a)(8) of such Act is amended by striking out “where printed and published” and inserting in lieu thereof “where published”.

~~TRANSPORTATION COMPANIES~~

SEC. 206. (a) Section 13(a)(9) of such Act is re-
pealed.

~~(b) (1) Section 13(a)(12) of such Act is repealed.~~

~~(2) Section 13(b) of such Act is amended by adding~~
~~after paragraph (16) (added of section 204(b) of this~~
~~Act) the following new paragraph:~~

“(17) any driver employed by an employer engaged in the business of operating taxicabs; or”

~~(e) Section 13(b)(7) of such Act is amended to read~~
as follows:

“(7) any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency; or”.

MOTION PICTURE THEATER EMPLOYEES

SEC. 207. Section 13(a) of such Act is amended by inserting after paragraph (8) the following new paragraph in lieu of the paragraph repealed by section 206(a) of this Act:

~~“(9) any employee employed by an establishment which is a motion picture theater; or”.~~

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1 lishment who is employed primarily in connection with
 2 the preparation or offering of food or beverages for
 3 human consumption either on the premises, or by such
 4 services as catering, banquet, box lunch, or curb or
 5 counter service, to the public, to employees, or to mem-
 6 bers or guests of members of clubs."

7 ~~GASOLINE SERVICE STATIONS~~

8 ~~SEC. 211.~~ Section ~~13(b)(8)~~ of such Act is repealed.

9 PETROLEUM DISTRIBUTION EMPLOYEES

10 ~~SEC. 212.~~ ~~(a)~~ Section ~~13(b)(10)~~ of such Act is re-
 11 pealed.

12 ~~(b)~~ Section ~~7(b)(3)~~ of such Act is amended to read
 13 as follows:

14 "~~(3)~~ by an independently owned and controlled
 15 local enterprise (including an enterprise with more than
 16 one bulk storage establishment) engaged in the whole-
 17 sale or bulk distribution of petroleum products if—

18 "~~(A)~~ the annual gross volume of sales of such
 19 enterprise is less than \$1,000,000 exclusive of excise
 20 taxes;

21 "~~(B)~~ more than 75 per centum of such enter-
 22 prise's annual dollar volume of sales is made within
 23 the State in which such enterprise is located, and

24 "~~(C)~~ not more than 25 per centum of the

annual dollar volume of sales of such enterprise is to
customers who are engaged in the bulk distribution
of such products for resale,

and such employee receives compensation for employ-
ment in excess of forty hours in any workweek at a rate
not less than one and one-half times the minimum wage
rate applicable to him under section 6,".

ENIWETOK AND KWAJALEIN ATOLLS AND JOHNSTON
ISLAND

SEC. 213. Section 13(f) of such Act is amended by
striking out "and the Canal Zone" and inserting in lieu
thereof "Eniwetok Atoll; Kwajalein Atoll; Johnston Is-
land; and the Canal Zone".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 214. (a) Section 3(n) of such Act is amended
by striking out "; except as used in subsection (s) (1),".

(b) Section 13(a) of such Act is amended—

(1) by redesignating paragraphs (11), (13),
(14), (15), and (21) as paragraphs (10), (11),
(12), (13), and (14), respectively, and

(2) by striking out "; or" at the end of paragraph
(14) (as so redesignated in this subsection) and insert-
ing in lieu thereof a period.

1 ~~(c)~~ Paragraph ~~(7)~~ of section 13~~(a)~~ of such Act is
 2 amended by striking out “or order” and inserting in lieu
 3 thereof “~~, order, or certificate~~”.

4 TITLE III—INCREASE IN MINIMUM WAGE
 5 PRESENTLY COVERED EMPLOYEES

6 SEC. 301. ~~(a)~~ Section 6~~(a)~~ of such Act is amended by
 7 amending that portion of the section preceding paragraph
 8 ~~(2)~~ to read as follows:

9 “(a) Every employer shall pay to each of his em-
 10 ployees who in any workweek is engaged in commerce or in
 11 the production of goods for commerce, or is employed in an
 12 enterprise engaged in commerce or in the production of
 13 goods for commerce, wages at the following rates:

14 “~~(1)~~ not less than \$1.40 an hour during the first
 15 two years from the effective date of the Fair Labor
 16 Standards Amendments of 1966 and not less than \$1.60
 17 an hour thereafter, except as otherwise provided in this
 18 section;”.

19 ~~(b)~~ Such section is amended by striking out the period
 20 at the end of paragraph ~~(3)~~ and inserting a semicolon,
 21 and by adding the following new paragraph:

22 “~~(4)~~ if such employee is employed as a seaman
 23 on an American vessel, not less than the rate which will
 24 provide to the employee, for the period covered by the
 25 wage payment, wages equal to compensation at the

hourly rate prescribed by paragraph ~~(1)~~ of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement); or”.

AGRICULTURAL EMPLOYEES

SEC. 302. Section 6(a) of such Act is amended by adding after paragraph ~~(4)~~ (added by section 301(b) of this Act) the following new paragraph:

“(5) if such employee is employed in agriculture, not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during the second year from such date, and not less than \$1.30 an hour thereafter.”

NEWLY COVERED EMPLOYEES

SEC. 303. Section 6(b) of such Act is amended to read as follows:

“(b) Every employer shall pay to each of his employees (other than an employee to whom subsection (a)(5) applies) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of

1 goods for commerce, and who in such workweek is brought
 2 within the purview of this section by the amendments made
 3 to this Act by the Fair Labor Standards Amendments of
 4 1966, wages at the following rates:

5 “(1) not less than \$1 an hour during the first
 6 year from the effective date of such amendments;

7 “(2) not less than \$1.15 an hour during the second
 8 year from such date;

9 “(3) not less than \$1.30 an hour during the third
 10 year from such date;

11 “(4) not less than \$1.45 an hour during the fourth
 12 year from such date; and

13 “(5) not less than \$1.60 an hour thereafter.”

14 EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

15 SEC. 304. Section 6(e) of such Act is amended to read
 16 as follows:

17 “(e)(1) The rate or rates provided by subsections (a)
 18 and (b) of this section shall be superseded in the case of
 19 any employee in Puerto Rico or the Virgin Islands only for
 20 so long as and insofar as such employee is covered by a wage
 21 order heretofore or hereafter issued by the Secretary pur-
 22 suant to the recommendations of a special industry committee
 23 appointed pursuant to section 5.

24 “(2) In the case of any such employee who is covered
 25 by such a wage order and to whom the rate or rates pre-

1 scribed by subsection ~~(a)~~ would otherwise apply, the fol-
2 lowing rates shall apply:

3 “~~(A)~~ The rate or rates applicable under the most
4 recent wage order issued by the Secretary prior to the
5 effective date of the Fair Labor Standards Amendments
6 of 1966, increased by 12 per centum, unless such rate
7 or rates are superseded by the rate or rates prescribed
8 in a wage order issued by the Secretary pursuant to the
9 recommendations of a review committee appointed under
10 paragraph ~~(C)~~. Such rate or rates shall become effec-
11 tive sixty days after the effective date of the Fair Labor
12 Standards Amendments of 1966 or one year from the
13 effective date of the most recent wage order applicable
14 to such employee theretofore issued by the Secretary
15 pursuant to the recommendations of a special industry
16 committee appointed under section 5, whichever is later.

17 “~~(B)~~ Beginning one year after the applicable effec-
18 tive date under paragraph ~~(A)~~, not less than the rate
19 or rates prescribed by paragraph ~~(A)~~, increased by
20 an amount equal to 16 per centum of the rate or rates
21 applicable under the most recent wage order issued by
22 the Secretary prior to the effective date of the Fair Labor
23 Standards Amendments of 1966, unless such rate or
24 rates are superseded by the rate or rates prescribed in
25 a wage order issued by the Secretary pursuant to the

1 recommendations of a review committee appointed under
2 paragraph (C).

3 “(C) Any employer, or group of employers, em-
4 ploying a majority of the employees in an industry in
5 Puerto Rico or the Virgin Islands, may apply to the
6 Secretary in writing for the appointment of a review
7 committee to recommend the minimum rate or rates
8 to be paid such employees in lieu of the rate of rates
9 provided by paragraph (A) or (B). Any such appli-
10 cation with respect to any rate or rates provided for
11 under paragraph (A) shall be filed within sixty days
12 following the enactment of the Fair Labor Standards
13 Amendments of 1966 and any such application with
14 respect to any rate or rates provided for under para-
15 graph (B) shall be filed not more than one hundred
16 and twenty days and not less than sixty days prior to
17 the effective date of the applicable rate or rates under
18 paragraph (B). The Secretary shall promptly con-
19 sider such application and may appoint a review com-
20 mittee if he has reasonable cause to believe, on the basis
21 of financial and other information contained in the ap-
22 plication, that compliance with any applicable rate or
23 rates prescribed by paragraph (A) or (B) will sub-
24 stantially curtail employment in such industry. The
25 Secretary's decision upon any such application shall

1 be final. Any wage order issued pursuant to the recom-
2 mendations of a review committee appointed under this
3 paragraph shall take effect on the applicable effective
4 date provided in paragraph ~~(A)~~ or ~~(B)~~.

5 “~~(D)~~ In the event a wage order has not been issued
6 pursuant to the recommendation of a review committee
7 prior to the applicable effective date under paragraph
8 ~~(A)~~ or ~~(B)~~, the applicable percentage increase pro-
9 vided by any such paragraph shall take effect on the
10 effective date prescribed therein, except with respect to
11 the employees of an employer who filed an application
12 under paragraph ~~(C)~~ and who files with the Secretary
13 an undertaking with a surety or sureties satisfactory to
14 the Secretary for payment to his employees of an amount
15 sufficient to compensate such employees for the dif-
16 ference between the wages they actually receive and the
17 wages to which they are entitled under this subsection.
18 The Secretary shall be empowered to enforce such under-
19 taking and any sums recovered by him shall be held in
20 a special deposit account and shall be paid, on order of
21 the Secretary, directly to the employee or employees
22 affected. Any such sum not paid to an employee be-
23 cause of inability to do so within a period of three years
24 shall be covered into the Treasury of the United States
25 as miscellaneous receipts.

1 “(3) In the case of any such employee to whom sub-
2 section (a)(5) or subsection (b) would otherwise apply;
3 the Secretary shall within sixty days after the effective date
4 of the Fair Labor Standards Amendments of 1966 appoint a
5 special industry committee in accordance with section 5 to
6 recommend the highest minimum wage rate or rates in ac-
7 cordance with the standards prescribed by section 8, but not
8 in excess of the applicable rate provided by subsection (a)
9 (5) or subsection (b); to be applicable to such employee in
10 lieu of the rate or rates prescribed by subsection (a)(5) or
11 subsection (b); as the case may be. The rate or rates recom-
12 mended by the special industry committee shall be effective
13 with respect to such employee upon the effective date of the
14 wage order issued pursuant to such recommendation but not
15 before sixty days after the effective date of the Fair Labor
16 Standards Amendments of 1966.

17 “(4) The provisions of section 5 and section 8, relating
18 to special industry committees, shall be applicable to review
19 committees appointed under this subsection. The appoint-
20 ment of a review committee shall be in addition to and not
21 in lieu of any special industry committee required to be
22 appointed pursuant to the provisions of subsection (a) of
23 section 8, except that no special industry committee shall
24 hold any hearing within one year after a minimum wage
25 rate or rates for such industry shall have been recommended

1 to the Secretary by a review committee to be paid in lieu
 2 of the rate or rates provided for under paragraph ~~(A)~~ or
 3 ~~(B)~~. The minimum wage rate or rates prescribed by this
 4 subsection shall be in effect only for so long as and insofar
 5 as such minimum wage rate or rates have not been super-
 6 seded by a wage order fixing a higher minimum wage rate
 7 or rates ~~(but not in excess of the applicable rate prescribed~~
 8 ~~in subsection (a) or subsection (b))~~ hereafter issued by the
 9 Secretary pursuant to the recommendation of a special in-
 10 dustry committee.”

11 CONTRACT SERVICES TO FEDERAL GOVERNMENT

12 SEC. 305. Section 6 of such Act is amended by adding
 13 at the end thereof the following new subsection:

14 “~~(c) (1)~~ Notwithstanding the provisions of section 13
 15 of this Act ~~(except subsections (a) (1) and (f) thereof)~~,
 16 every employer providing any contract services ~~(other than~~
 17 ~~laundrying or related cleaning services)~~ under a contract
 18 with the United States or any subcontract thereunder shall
 19 pay to each of his employees whose rate of pay is not gov-
 20 erned by the Service Contract Act of 1965 ~~(Public Law~~
 21 ~~89-286)~~ or to whom subsection ~~(a) (1)~~ of this section is
 22 not applicable; wages at rates not less than the rates pro-
 23 vided for in subsection ~~(b)~~ of this section.

24 “~~(2)~~ Notwithstanding the provisions of section 13 of

1 this Act ~~(except subsections (a)(1) and (f) thereof)~~ and
 2 the provisions of the Service Contract Act of 1965 ~~(Public~~
 3 ~~Law 89-286)~~, every employer in an establishment provid-
 4 ing laundering or related cleaning services to the United
 5 States under a contract with the United States or any sub-
 6 contract thereunder shall pay to each of his employees in
 7 such establishment wages at rates not less than those pre-
 8 scribed in subsection ~~(b)~~, except that if more than 50 per
 9 centum of the gross annual dollar volume of sales made or
 10 business done by such establishment is derived from provid-
 11 ing such laundering or related cleaning services under any
 12 such contracts or subcontracts, such employer shall pay to
 13 each of his employees in such establishment wages at rates
 14 not less than those prescribed in subsection ~~(a)(1)~~ of this
 15 section.”

16 FEDERAL EMPLOYEES

17 SEC. 306. Section 18 of such Act is amended by insert-
 18 ing “~~(a)~~” immediately after “SEC. 18.” and by adding at
 19 the end thereof the following new subsection:

20 “~~(b)~~ Notwithstanding any other provision of this Act
 21 or any other law, any employee—

22 “~~(1)~~ described in paragraph ~~(7)~~ of section 202
 23 of the Classification Act of 1949 ~~(5 U.S.C. 1082(7))~~
 24 whose compensation is required to be fixed and adjusted
 25 from time to time as nearly as is consistent with the

1 public interest in accordance with prevailing rates; or
2 ~~“(2)~~ employed in a nonappropriated fund instru-
3 mentality under the jurisdiction of the Armed Forces,
4 who performed services during the workweek in a work
5 place within the District of Columbia or a State of the United
6 States; shall have his basic compensation fixed or adjusted
7 at a wage rate which is not less than the appropriate wage
8 rate provided for in section 6(a)(1) of this Act and shall
9 have his overtime compensation set at an hourly rate not
10 less than the overtime rate provided for in section 7(a) of
11 this Act.”

12 TITLE IV—APPLICATION OF MAXIMUM HOURS 13 PROVISIONS

14 PRESENTLY AND NEWLY COVERED EMPLOYEES

15 SEC. 401. Section 7(a) of such Act is amended to read
16 as follows:

17 ~~“(a)(1)~~ Except as otherwise provided in this section,
18 no employer shall employ any of his employees who in any
19 workweek is engaged in commerce or in the production of
20 goods for commerce, or is employed in an enterprise engaged
21 in commerce or in the production of goods for commerce,
22 for a workweek longer than forty hours unless such em-
23 ployee receives compensation for his employment in excess
24 of the hours above specified at a rate not less than one and
25 one-half times the regular rate at which he is employed.

1 “(2) No employer shall employ any of his employees
2 who in any workweek is engaged in commerce or in the
3 production of goods for commerce, or is employed in an
4 enterprise engaged in commerce or in the production of
5 goods for commerce, and who in such workweek is brought
6 within the purview of this subsection by the amendments
7 made to this Act by the Fair Labor Standards Amendments
8 of 1966—

9 “~~(A)~~ for a workweek longer than forty-four hours
10 during the first year from the effective date of the Fair
11 Labor Standards Amendments of 1966,

12 “~~(B)~~ for a ~~workweek~~ longer than forty-two hours

13 during the second year from such date, or

14 “(C) for a workweek longer than forty hours after
15 the expiration of the second year from such date,
16 unless such employee receives compensation for his employ-
17 ment in excess of the hours above specified at a rate not less
18 than one and one-half times the regular rate at which he is
19 employed.”

20 COMMISSION SALESMAN

21 SEC. 402. Subsection (i) of section 7 of such Act (as
22 so redesignated by section 204(d) of this Act) is amended
23 by adding at the end thereof the following new sentence: “In
24 determining the proportion of compensation representing
25 commissions, all earnings resulting from the application of

a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee."

TITLE V—STUDENTS AND MANAGEMENT TRAINEES

STUDENTS AND MANAGEMENT TRAINEES

SEC. 501. (a) Section 14 of such Act is amended—

(1) by inserting "(a)" immediately before "The Secretary of Labor";

(2) by striking out "of messengers" and inserting in lieu thereof "and of messengers";

(3) by striking out "; and of full-time students outside of their school hours in any retail or service establishment: *Provided*, That such employment is not of the type ordinarily given to a full-time employee"; and

(4) by adding at the end thereof the following new subsections:

"(b) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment of full-time students, regardless of age but in compliance with applicable child labor laws, on a part-time basis in retail or service establishments (not to exceed twenty hours in any work-week) or on a part-time or a full-time basis in such establish-

1 ments during school vacations, under special certificates
2 issued pursuant to regulations of the Secretary, at a wage rate
3 not less than 85 per centum of the minimum wage applicable
4 under section 6, except that the proportion of student hours
5 of employment to total hours of employment of all employees
6 in any establishment may not exceed ~~(1)~~ such proportion
7 for the corresponding month of the twelve-month period
8 preceeding May 1, 1961, ~~(2)~~ in the case of a retail or service
9 establishment whose employees ~~(other than employees en-~~
10 ~~gaged in commerce or in the production of goods for com-~~
11 ~~merce)~~ are covered by this Act for the first time on or after
12 the effective date of the Fair Labor Standards Amend-
13 ments of 1966, such proportion for the corresponding month
14 of the twelve-month period immediately prior to such date,
15 or ~~(3)~~ in the case of a retail or service establishment com-
16 ing into existence after May 1, 1961, or a retail or service
17 establishment for which records of student hours worked
18 are not available, a proportion of student hours of employ-
19 ment to total hours of employment of all employees based
20 on the practice during the twelve-month period preceeding
21 May 1, 1961, in ~~(A)~~ similar establishments of the same
22 employer in the same general metropolitan area in which
23 the new establishment is located, ~~(B)~~ similar establishments
24 of the same employer in the same or nearby counties if the
25 new establishment is not in a metropolitan area, or ~~(C)~~

1 other establishments of the same general character operating
2 in the community or the nearest comparable community.
3 Before the Secretary may issue a certificate under this sub-
4 section he must find that such employment will not create a
5 substantial probability of reducing the full-time employment
6 opportunities of persons other than those employed under
7 this subsection.

8 “(c) The Secretary, to the extent necessary in order to
9 prevent curtailment of opportunities for employment, shall
10 by certificate or order provide for the employment of full-
11 time students, regardless of age but in compliance with
12 applicable child labor laws, on a part-time basis in agricul-
13 ture (not to exceed twenty hours in any workweek) or on a
14 part-time or a full-time basis in agriculture during school
15 vacations, at a wage rate not less than 58 per centum of the
16 minimum wage applicable under section 6. Before the Sec-
17 retary may issue a certificate or order under this subsection
18 he must find that such employment will not create a substan-
19 tial probability of reducing the full time employment oppor-
20 tunies of persons other than those employed under this
21 subsection.

22 “(d) The Secretary shall by regulation or by order
23 provide that retail or service establishments may employ
24 management trainees, under special certificates issued pur-
25 suant to regulations of the Secretary, without paying such

1 trainees the overtime compensation provided for by section
 2 7 for a period which shall not exceed eighteen months, if
 3 such trainees are being trained for employment in a bona
 4 fide executive or administrative capacity as defined by the
 5 Secretary under section 13(a)(1). In the case of any re-
 6 tail or service establishment, no such special certificate shall
 7 be in effect—

8 “(1) where there are fifty employees or less in
 9 such establishment, with respect to more than one man-
 10 agement trainee, or

11 “(2) where there are more than fifty employees
 12 in such establishment, with respect to more than a
 13 number of such trainees which is equal to 3 per centum
 14 of the number of employees in such establishment in
 15 excess of fifty (rounded to the next lowest whole num-
 16 ber), plus one, or

17 “(3) where such management trainees receive
 18 compensation for hours worked over forty in any work-
 19 week at a rate less than one and one-half times the
 20 minimum wage rate applicable to such employees under
 21 section 6, or

22 “(4) where such management trainees are em-
 23 ployed for more than forty-eight hours in any workweek.

24 “(e) Nothing in this Act shall require any employer
 25 to pay in excess of 75 per centum of the applicable minimum

1 wage prescribed by section 6 to any employee, under the age
 2 of twenty-one years, during the first six weeks of full-time
 3 employment of such employee's employment career."

4 (b) The center heading for such section 14 is amended
 5 to read as follows:

6 "LEARNERS, APPRENTICES, AND HANDICAPPED WORKERS;
 7 STUDENTS; AND MANAGEMENT TRAINEES".

8 TITLE VI—STATUTE OF LIMITATIONS; EFFEC-
 9 TIVE DATE; AND STUDY

10 STATUTE OF LIMITATIONS

11 SEC. 601. (a) Section 16(e) of such Act is amended
 12 by striking out "two-year statute" and by inserting in lieu
 13 thereof "statutes".

14 (b) Section 6(a) of the Portal-to-Portal Act of 1947
 15 (Public Law 49, Eightieth Congress) is amended by insert-
 16 ing before the semicolon at the end thereof the follow-
 17 ing: "except that a cause of action arising out of a willful
 18 violation may be commenced within three years after the
 19 cause of action accrued".

20 EFFECTIVE DATE

21 SEC. 602. Except as otherwise provided in this Act, the
 22 amendments made by this Act shall take effect on February
 23 1, 1967. On and after the date of the enactment of this Act
 24 the Secretary is authorized to promulgate necessary rules,

1 regulations, or orders with regard to the amendments made
2 by this Act.

3 STUDY OF EXCESSIVE OVERTIME

4 SEC. 603. The Secretary of Labor is hereby instructed
5 to commence immediately a complete study of present prac-
6 tices dealing with overtime payments for work in excess
7 of forty hours per week and the extent to which such over-
8 time work impedes the creation of new job opportunities
9 in American industry. The Secretary is further instructed
10 to report to the Congress by July 1, 1967, the findings
11 of such survey with appropriate recommendations.

12 *That this Act may be cited as the "Fair Labor Standards*
13 *Amendments of 1966".*

14 TITLE I—DEFINITIONS

15 TIPS

16 SEC. 101. (a) Section 3(m) of the Fair Labor Stand-
17 ards Act of 1938 is amended by adding at the end thereof
18 the following new sentence: "In determining the wage of a
19 tipped employee, the amount paid such employee by his em-
20 ployer shall be deemed to be increased on account of tips by
21 an amount determined by the employer, but not by an
22 amount in excess of 50 per centum of the applicable mini-
23 mum wage rate, except that in the case of an employee who
24 (either himself or acting through his representative) shows
25 to the satisfaction of the Secretary that the actual amount of

1 tips received by him was less than the amount determined
 2 by the employer as the amount by which the wage paid
 3 him was deemed to be increased under this sentence, the
 4 amount paid such employee by his employer shall be deemed
 5 to have been increased by such lesser amount."

6 (b) Section 3 of such Act is amended by adding at
 7 the end thereof the following new subsection:

8 "(t) 'Tipped employee' means any employee engaged
 9 in an occupation in which he customarily and regularly
 10 receives more than \$20 a month in tips."

11 DEFINITION OF ENTERPRISE

12 SEC. 102. (a) Section 3(r) of such Act is amended by
 13 adding at the end thereof the following: "For purposes of
 14 this subsection, the activities performed by any person or
 15 persons—

16 "(1) in connection with the operation of a hos-
 17 pital, an institution primarily engaged in the care of the
 18 sick, the aged, the mentally ill or defective who reside
 19 on the premises of such institution, a school for physically
 20 or mentally handicapped or gifted children, or an in-
 21 stitution of higher education (regardless of whether or
 22 not such hospital, institution, or school is public or pri-
 23 vate or operated for profit or not for profit), or

24 "(2) in connection with the operation of a street,
 25 suburban or interurban electric railway, or local trolley

1 *or motorbus carrier, if the rates and services of such rail-*
 2 *way or carrier are subject to regulation by a State or*
 3 *local agency (regardless of whether or not such rail-*
 4 *way or carrier is public or private or operated for profit*
 5 *or not for profit),*

6 *shall be deemed to be activities performed for a business*
 7 *purpose.”*

8 *(b) Section 3(d) of such Act is amended by inserting*
 9 *after “of a State” the following: “(except with respect to*
 10 *employees of a State, or a political subdivision thereof, em-*
 11 *ployed (1) in a hospital, institution, or school referred to in*
 12 *the last sentence of subsection (r) of this section, or (2) in*
 13 *the operation of a railway or carrier referred to in such*
 14 *sentence)”.*

15 *(c) Section 3(s) of such Act is amended to read as*
 16 *follows:*

17 *“(s) ‘Enterprise engaged in commerce or in the pro-*
 18 *duction of goods for commerce’ means an enterprise which*
 19 *has employees engaged in commerce or in the production of*
 20 *goods for commerce, including employees handling, selling,*
 21 *or otherwise working on goods that have been moved in or*
 22 *produced for commerce by any person, and which—*

23 *“(1) during the period February 1, 1967, through*
 24 *January 31, 1969, is an enterprise whose annual gross*
 25 *volume of sales made or business done is not less than*

1 \$500,000 (exclusive of excise taxes at the retail level
2 which are separately stated) or is a gasoline service
3 establishment whose annual gross volume of sales is not
4 less than \$250,000 (exclusive of excise taxes at the
5 retail level which are separately stated), and beginning
6 February 1, 1969, is an enterprise whose annual gross
7 volume of sales made or business done is not less than
8 \$250,000 (exclusive of excise taxes at the retail level
9 which are separately stated);

10 “(2) is engaged in laundering, cleaning, or re-
11 pairing clothing or fabrics;

12 “(3) is engaged in the business of construction
13 or reconstruction, or both; or

14 “(4) is engaged in the operation of a hospital, an
15 institution primarily engaged in the care of the sick,
16 the aged, the mentally ill or defective who reside on the
17 premises of such institution, a school for physically or
18 mentally handicapped or gifted children, or an institu-
19 tion of higher education (regardless of whether or not
20 such hospital, institution, or school is public or private
21 or operated for profit or not for profit).

22 Any establishment which has as its only regular employees
23 the owner thereof or the parent, spouse, child, or other mem-
24 ber of the immediate family of such owner shall not be con-

1 sidered to be an enterprise engaged in commerce or in the
 2 production of goods for commerce or a part of such an en-
 3 terprise, and the sales of such establishment shall not be
 4 included for the purpose of determining the annual gross
 5 volume of sales of any enterprise for the purpose of this
 6 subsection. In any case in which a person other than the
 7 owner of an apartment building is engaged by such owner
 8 to perform management services in connection with the opera-
 9 tion of such building, any individual employed at, and resi-
 10 dent in, such building as a manager, caretaker, or janitor,
 11 or in a similar capacity, shall be considered, for the pur-
 12 poses of this subsection, to be the employee of the owner of
 13 such building."

14 AGRICULTURAL EMPLOYEES

15 SEC. 103. (a) Section 3(e) of such Act is amended
 16 to read as follows:

17 "(e) 'Employee' includes any individual employed by
 18 an employer, except that such term shall not, for the pur-
 19 poses of section 3(u), include—

20 "(1) any individual employed by an employer en-
 21 gaged in agriculture if such individual is the parent,
 22 spouse, child, or other member of the employer's imme-
 23 diate family,

24 "(2) any individual who is employed by an em-
 25 ployer engaged in agriculture if such individual (A) is

employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (B) commutes daily from his permanent residence to the farm on which he is so employed, and (C) has been employed in agriculture less than thirteen weeks during the preceding calendar year, or

“(3) any individual who is employed by an employer engaged in agriculture if such individual is principally engaged in the range production of livestock.”

(b) Section 3 of such Act is further amended by adding after subsection (t) (added by section 101(b) of this Act) the following new subsection:

“(u) ‘Man-day’ means any day during any portion of which an employee performs any agricultural labor.”

TITLE II—REVISION OF EXEMPTIONS

HOTEL, RESTAURANT, AND RECREATIONAL ESTABLISHMENTS; HOSPITALS AND RELATED INSTITUTIONS

SEC. 201. (a) Section 13(a)(2) of such Act is amended by striking out everything preceding “A ‘retail or service establishment’” and inserting in lieu thereof the following:

“(2) any employee employed by any retail or

1 *service establishment (except an establishment or em-*
 2 *ployee engaged in laundering, cleaning, or repairing*
 3 *clothing or fabrics or an establishment engaged in the*
 4 *operation of a hospital, institution, or school described*
 5 *in section 3(s)(4)), if more than 50 per centum of*
 6 *such establishment's annual dollar volume of sales of*
 7 *goods or services is made within the State in which the*
 8 *establishment is located, and such establishment is not in*
 9 *an enterprise described in section 3(s) or such establish-*
 10 *ment has an annual dollar volume of sales which is less*
 11 *than \$250,000 (exclusive of excise taxes at the retail*
 12 *level which are separately stated)."*

13 *(b)(1) Section 13(b) of such Act is amended by in-*
 14 *serting after paragraph (17), added by section 206(a)(2)*
 15 *of the Act, the following new paragraph:*

16 *"(18) any employee employed by an establishment*
 17 *which is a hotel, motel, or restaurant; or is an institu-*
 18 *tion (other than hospitals) primarily engaged in the care*
 19 *of the sick, the aged, the mentally ill, or defective who*
 20 *reside on the premises of such an institution; or"*

21 *(2) Section 13(a) of such Act is amended by inserting*
 22 *after paragraph (2) the following new paragraph in lieu of*
 23 *the paragraph repealed by section 202 of this Act:*

24 *"(3) any employee employed by an establishment*
 25 *which is an amusement or recreational establishment,*

1 *if (A) it does not operate for more than seven months*
2 *in any calendar year, or (B) during the preceding cal-*
3 *endar year, its average receipts for any six months of*
4 *such year were not more than $33\frac{1}{3}$ per centum of its*
5 *average receipts for the other six months of such year;*
6 *or”.*

7 *LAUNDRY AND CLEANING ESTABLISHMENTS*

8 *SEC. 202. Section 13(a)(3) of such Act is repealed.*

9 *AGRICULTURAL EMPLOYEES*

10 *SEC. 203. (a) Section 13(a)(6) of such Act is amend-*
11 *ed to read as follows:*

12 *“(6) any employee employed in agriculture (A) if*
13 *such employee is employed by an employer who did not,*
14 *during any calendar quarter during the preceding*
15 *calendar year, use more than five hundred man-days*
16 *of agricultural labor, (B) if such employee is the parent,*
17 *spouse, child, or other member of his employer’s imme-*
18 *diata family, or (C) if such employee (i) is employed*
19 *as a hand harvest laborer and is paid on a piece rate*
20 *basis in an operation which has been, and is customarily*
21 *and generally recognized as having been, paid on a piece*
22 *rate basis in the region of employment, (ii) commutes*
23 *daily from his permanent residence to the farm on which*
24 *he is so employed, and (iii) has been employed in agri-*
25 *culture less than thirteen weeks during the preceding*

1 calendar year, or (D) if such employee (other than an
2 employee described in clause (C) of this subsection)
3 (i) is sixteen years of age or under and is employed as
4 a hand harvest laborer, is paid on a piece-rate basis in
5 an operation which has been, and is customarily and
6 generally recognized as having been, paid on a piece-rate
7 basis in the region of employment; (ii) is employed on
8 the same farm as his parent or person standing in the
9 place of his parent; and (iii) is paid at the same piece
10 rate as employees over age sixteen are paid on the same
11 farm; or (E) if such employee is principally engaged
12 in the range production of livestock.”

13 (b) Section 13(a)(16) of such Act (agricultural em-
14 ployees employed in livestock auctions) is repealed.

15 (c) Section 13(b) of such Act is amended—

16 (A) by striking out the period at the end of para-
17 graph (11) and inserting in lieu thereof “; or”, and

18 (B) by adding at the end of paragraph (11) the
19 following new paragraphs:

20 “(12) any employee employed in agriculture or in
21 connection with the operation or maintenance of ditches,
22 canals, reservoirs, or waterways, not owned or operated
23 for profit, or operated on a share-crop basis, and which
24 are used exclusively for supply and storing of water for
25 agricultural purposes; or

1 “(13) any employee with respect to his employ-
2 ment in agriculture by a farmer, notwithstanding other
3 employment of such employee in connection with live-
4 stock auction operations in which such farmer is engaged
5 as an adjunct to the raising of livestock, either on his
6 own account or in conjunction with other farmers, if
7 such employee (A) is primarily employed during his
8 workweek in agriculture by such farmer, and (B) is
9 paid for his employment in connection with such live-
10 stock auction operations at a wage rate not less than
11 that prescribed by section 6(a)(1); or”.

12 (d) Section 13(c) of such Act is amended to read as
13 follows:

14 “(c)(1) The provisions of section 12 relating to child
15 labor shall not apply with respect to any employee employed
16 in agriculture outside of school hours for the school district
17 where such employee is living while he is so employed.

18 “(2) No employee below the age of sixteen may be em-
19 ployed in agriculture in an occupation that the Secretary
20 of Labor finds and declares to be particularly hazardous for
21 the employment of children below age sixteen, except where
22 such employee is employed by his parent or by a person
23 standing in the place of his parent on a farm owned or oper-
24 ated by such parent or person.

25 “(3) The provisions of section 12 relating to child labor

1 *shall not apply to any child employed as an actor or per-*
 2 *former in motion pictures or theatrical productions, or in*
 3 *radio or television productions."*

4 *AGRICULTURAL PROCESSING EMPLOYEES*

5 *SEC. 204. (a) Sections 13(a)(10) (employees en-*
 6 *gaged in handling and processing of agricultural, horticul-*
 7 *tural, and dairy products); 13(a)(17) (country elevator*
 8 *employees); 13(a)(18) (cotton ginning employees); and*
 9 *13(a)(22) (fruit and vegetable transportation employees)*
 10 *of such Act are repealed.*

11 *(b) Section 13(b) of such Act is amended by adding*
 12 *after paragraph (13) (added by section 203(c) of this Act)*
 13 *the following new paragraphs:*

14 *"(14) any employee employed within the area of*
 15 *production (as defined by the Secretary) by an estab-*
 16 *lishment commonly recognized as a country elevator,*
 17 *including such an establishment which sells products and*
 18 *services used in the operation of a farm, if no more than*
 19 *five employees are employed in the establishment in*
 20 *such operations; or*

21 *"(15) any employee engaged in ginning of cotton*
 22 *for market, in any place of employment located in a*
 23 *county where cotton is grown in commercial quan-*
 24 *tities; or*

25 *"(16) any employee engaged (A) in the transpor-*

1 *tation and preparation for transportation of fruits or*
2 *vegetables, whether or not performed by the farmer,*
3 *from the farm to a place of first processing or first mar-*
4 *keting within the same State, or (B) in transportation,*
5 *whether or not performed by the farmer, between the*
6 *farm and any point within the same State of persons*
7 *employed or to be employed in the harvesting of fruits*
8 *or vegetables; or”.*

9 *(c) Subsection (c) of section 7 of such Act is amended*
10 *to read as follows:*

11 *“(c) For a period or periods of not more than ten*
12 *workweeks in the aggregate in any calendar year, or four-*
13 *teen workweeks in the aggregate in the case of an employer*
14 *who does not qualify for the exemption in subsection (d)*
15 *of this section, any employer may employ any employee*
16 *for a workweek in excess of that specified in subsection (a)*
17 *without paying the compensation for overtime employment*
18 *prescribed in such subsection if such employee (1) is em-*
19 *ployed by such employer in an industry found by the Sec-*
20 *retary to be of a seasonal nature, and (2) receives com-*
21 *ensation for employment by such employer in excess of ten*
22 *hours in any workday, or for employment by such employer*
23 *in excess of fifty-two hours in any workweek, as the case*
24 *may be, at a rate not less than one and one-half times the*
25 *regular rate at which he is employed.*

1 “(d) For a period or periods of not more than ten
 2 workweeks in the aggregate in any calendar year, or fourteen
 3 workweeks in the aggregate in the case of an employer
 4 who does not qualify for the exemption in subsection (c) of
 5 this section, any employer may employ any employee for a
 6 workweek in excess of that specified in subsection (a) with-
 7 out paying the compensation for overtime employment pre-
 8 scribed in such subsection, if such employee—

9 “(1) is employed by such employer in an enter-
 10 prise which is in an industry found by the Secretary—

11 “(A) to be characterized by marked annually
 12 recurring seasonal peaks of operation at the places
 13 of first marketing or first processing of agricul-
 14 tural or horticultural commodities from farms if
 15 such industry is engaged in the handling, packing,
 16 preparing, storing, first processing, or canning of
 17 any perishable agricultural or horticultural com-
 18 modities in their raw or natural state, or

19 “(B) to be of a seasonal nature and engaged
 20 in the handling, packing, storing, preparing, first
 21 processing, or canning of any perishable agricul-
 22 tural or horticultural commodities in their raw or
 23 natural state, and

24 “(2) receives compensation for employment by
 25 such employer in excess of ten hours in any workday,

or for employment in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.”

(d)(1) Subsections (d), (e), (f), (g), and (h) of section 7 of such Act are redesignated as subsections (e), (f), (g), (h), and (i), respectively.

(2) Subsections (g) and (h) of such section 7 (as so redesignated by paragraph (1) of this subsection) are each amended by striking out “subsection (d)” and inserting in lieu thereof “subsection (e)”.

SMALL NEWSPAPERS

SEC. 205. Section 13(a)(8) of such Act is amended by striking out “where printed and published” and inserting in lieu thereof “where published”.

TRANSPORTATION COMPANIES

SEC. 206. (a) Section 13(a)(9) of such Act is repealed.

(b)(1) Section 13(a)(12) of such Act is repealed.

(2) Section 13(b) of such Act is amended by adding after paragraph (16) added by section 204(b) of this Act) the following new paragraph:

“(17) any driver employed by an employer engaged in the business of operating taxicabs; or”.

1 (c) Section 13(b)(7) of such Act is amended to read
2 as follows:

3 “(7) any driver, operator, or conductor employed
4 by an employer whose annual gross volume of sales
5 made or business done is less than \$1,000,000 (exclusive
6 of excise taxes at the retail level which are separately
7 stated), engaged in the business of operating a street,
8 suburban or interurban electric railway, or local trolley
9 or motorbus carrier, if the rates and services of such
10 railway or carrier are subject to regulation by a State
11 or local agency; or”

12 MOTION PICTURE THEATER EMPLOYEES

13 SEC. 207. Section 13(a) of such Act is amended by
14 inserting after paragraph (8) the following new paragraph
15 in lieu of the paragraph repealed by section 206(a) of this
16 Act:

17 “(9) any employee employed by an establishment
18 which is a motion picture theater; or”.

19 LOGGING CREWS

20 SEC. 208. Section 13(a)(15) of such Act is amended
21 to read as follows:

22 “(15) any employee employed in planting or tend-
23 ing trees, cruising, surveying, or felling timber, or in pre-
24 paring or transporting logs or other forestry products to

the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight during the year beginning February 1, 1967, and if the number of such employees does not exceed six beginning February 1, 1968, and thereafter."

AUTOMOBILE, AIRCRAFT, AND FARM IMPLEMENT SALES
ESTABLISHMENTS

SEC. 209. (a) Section 13(a)(19) of such Act is repealed.

(b) Section 13(b) of such Act is amended by inserting after paragraph (9) the following new paragraph in lieu of the paragraph repealed by section 212 of this Act:

(10) any salesman (other than partsman) or mechanic primarily engaged in selling or servicing automobiles, trailers, trucks, farm implements or aircraft if employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles to ultimate purchasers; or

FOOD SERVICE EMPLOYEES

SEC. 210. (a) Section 13(a)(20) of such Act is repealed.

(b) Section 13(b) of such Act is amended by adding

1 after paragraph (18) (added by section 201(b)(1) of this
2 Act) the following new paragraph:

3 “(19) any employee of a retail or service estab-
4 lishment who is employed primarily in connection with
5 the preparation or offering of food or beverages for
6 human consumption either on the premises, or by such
7 services as catering, banquet, box lunch, or curb or
8 counter service, to the public, to employees, or to mem-
9 bers or guests of members of clubs.”

10 GASOLINE SERVICE STATIONS

11 SEC. 211. Section 13(b)(8) of such Act is repealed.

12 PETROLEUM DISTRIBUTION EMPLOYEES

13 SEC. 212. (a) Section 13(b)(10) of such Act is
14 repealed.

15 (b) Section 7(b)(3) of such Act is amended to read
16 as follows:

17 “(3) by an independently owned and controlled
18 local enterprise (including an enterprise with more than
19 one bulk storage establishment) engaged in the whole-
20 sale or bulk distribution of petroleum products if—

21 “(A) the annual gross volume of sales of such
22 enterprise is less than \$1,000,000 exclusive of excise
23 taxes;

24 “(B) more than 75 per centum of such enter-
25 prise’s annual dollar volume of sales is made within

the State in which such enterprise is located, and

“(C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale,

and such employee receives compensation for employment in excess of forty hours in any workweek at a rate not less than one and one-half times the minimum wage rate applicable to him under section 6,”.

ENIWETOK AND KWAJALEIN ATOLLS AND JOHNSTON

ISLAND

SEC. 213. Section 13(f) of such Act is amended by striking out “and the Canal Zone” and inserting in lieu thereof “Eniwetok Atoll; Kwajalein Atoll; Johnston Island; and the Canal Zone”.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 214. (a) Section 3(n) of such Act is amended by striking out “, except as used in subsection (s)(1),”.

(b) Section 13 (a) of such Act is amended—

(1) by redesignating paragraphs (11), (13), (14), (15), and (21) as paragraphs (10), (11), (12), (13), and (14), respectively, and

(2) by striking out “; or” at the end of paragraph (14) (as so redesignated in this subsection) and inserting in lieu thereof a period.

1 (c) Paragraph (7) of section 13(a) of such Act is
2 amended by striking out "or order" and inserting in lieu
3 thereof ", order, or certificate".

4 *TITLE III—INCREASE IN MINIMUM WAGE*

5 *PRESENTLY COVERED EMPLOYEES*

6 SEC. 301. (a) Section 6(a) of such Act is amended by
7 amending that portion of the section preceding paragraph
8 (2) to read as follows:

9 “(a) Every employer shall pay to each of his em-
10 ployees who in any workweek is engaged in commerce or in
11 the production of goods for commerce, or is employed in an
12 enterprise engaged in commerce or in the production of
13 goods for commerce, wages at the following rates:

14 “(1) not less than \$1.40 an hour during the first
15 year from the effective date of the Fair Labor Standards
16 Amendments of 1966 and not less than \$1.60 an hour
17 thereafter, except as otherwise provided in this section;”.

18 (b) Such section is amended by striking out the period
19 at the end of paragraph (3) and inserting a semicolon,
20 and by adding the following new paragraph:

21 “(4) if such employee is employed as a seaman
22 on an American vessel, not less than the rate which will
23 provide to the employee, for the period covered by the
24 wage payment, wages equal to compensation at the
25 hourly rate prescribed by paragraph (1) of this sub-

section for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement); or”.

AGRICULTURAL EMPLOYEES

SEC. 302. Section 6(a) of such Act is amended by adding after paragraph (4) (added by section 301(b) of this Act) the following new paragraph:

“(5) if such employee is employed in agriculture, not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during the second year from such date, and not less than \$1.30 an hour thereafter: Provided, That in the case of workers employed in agriculture in hand harvest work by an employer on a piece-rate basis, if during any workweek the average of the aggregated earnings of such workers exceeds the minimum hourly wage as prescribed above, the employer shall be considered to be in compliance with this section: Provided further, That no employee employed on such piece-rate basis is paid less than 75 per centum of the minimum wage applicable under this paragraph.”

1 NEWLY COVERED EMPLOYEES

2 SEC. 303. Section 6(b) of such Act is amended to read
3 as follows:

4 “(b) Every employer shall pay to each of his employees
5 (other than an employee to whom subsection (a)(5) ap-
6 plies) who in any workweek is engaged in commerce or in
7 the production of goods for commerce, or is employed in an
8 enterprise engaged in commerce or in the production of
9 goods for commerce, and who in such workweek is brought
10 within the purview of this section by the amendments made
11 to this Act by the Fair Labor Standards Amendments of
12 1966, wages at the following rates:

13 “(1) not less than \$1 an hour during the first
14 year from the effective date of such amendments,

15 “(2) not less than \$1.15 an hour during the second
16 year from such date,

17 “(3) not less than \$1.30 an hour during the third
18 year from such date,

19 “(4) not less than \$1.45 an hour during the fourth
20 year from such date, and

21 “(5) not less than \$1.60 an hour thereafter.”

22 EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

23 *SEC. 304. Section 6(c) of such Act is amended to read*
24 *as follows:*

25 “(c)(1) The rate or rates provided by subsections (a)

1 and (b) of this section shall be superseded in the case of
2 any employee in Puerto Rico or the Virgin Islands only for
3 so long as and insofar as such employee is covered by a wage
4 order heretofore or hereafter issued by the Secretary pur-
5 suant to the recommendations of a special industry committee
6 appointed pursuant to section 5.

7 “(2) In the case of any such employee who is covered
8 by such a wage order and to whom the rate or rates pre-
9 scribed by subsection (a) would otherwise apply, the fol-
10 lowing rates shall apply:

11 “(A) The rate or rates applicable under the most
12 recent wage order issued by the Secretary prior to the
13 effective date of the Fair Labor Standards Amendments
14 of 1966, increased by 12 per centum, unless such rate
15 or rates are superseded by the rate or rates prescribed
16 in a wage order issued by the Secretary pursuant to the
17 recommendations of a review committee appointed under
18 paragraph (C). Such rate or rates shall become effec-
19 tive sixty days after the effective date of the Fair Labor
20 Standards Amendments of 1966 or one year from the
21 effective date of the most recent wage order applicable
22 to such employee theretofore issued by the Secretary
23 pursuant to the recommendations of a special industry
24 committee appointed under section 5, whichever is later.

25 “(B) Beginning one year after the applicable effec-

1 *tive date under paragraph (A), not less than the rate*
2 *or rates prescribed by paragraph (A), increased by*
3 *an amount equal to 16 per centum of the rate or rates*
4 *applicable under the most recent wage order issued by*
5 *the Secretary prior to the effective date of the Fair Labor*
6 *Standards Amendments of 1966, unless such rate or*
7 *rates are superseded by the rate or rates prescribed in*
8 *a wage order issued by the Secretary pursuant to the*
9 *recommendations of a review committee appointed under*
10 *paragraph (C).*

11 “(C) *Any employer, or group of employers, em-*
12 *ploying a majority of the employees in an industry in*
13 *Puerto Rico or the Virgin Islands, may apply to the*
14 *Secretary in writing for the appointment of a review*
15 *committee to recommend the minimum rate or rates*
16 *to be paid such employees in lieu of the rate or rates*
17 *provided by paragraph (A) or (B). Any such appli-*
18 *cation with respect to any rate or rates provided for*
19 *under paragraph (A) shall be filed within sixty days*
20 *following the enactment of the Fair Labor Standards*
21 *Amendments of 1966 and any such application with*
22 *respect to any rate or rates provided for under para-*
23 *graph (B) shall be filed not more than one hundred*
24 *and twenty days and not less than sixty days prior to*
25 *the effective date of the applicable rate or rates under*

1 paragraph (B). The Secretary shall promptly con-
2 sider such application and may appoint a review com-
3 mittee if he has reasonable cause to believe, on the basis
4 of financial and other information contained in the ap-
5 plication, that compliance with any applicable rate or
6 rates prescribed by paragraph (A) or (B) will sub-
7 stantially curtail employment in such industry. The
8 Secretary's decision upon any such application shall
9 be final. Any wage order issued pursuant to the recom-
10 mendations of a review committee appointed under this
11 paragraph shall take effect on the applicable effective
12 date provided in paragraph (A) or (B).

13 “(D) In the event a wage order has not been issued
14 pursuant to the recommendation of a review committee
15 prior to the applicable effective date under paragraph
16 (A) or (B), the applicable percentage increase pro-
17 vided by any such paragraph shall take effect on the
18 effective date prescribed therein, except with respect to
19 the employees of an employer who filed an application
20 under paragraph (C) and who files with the Secretary
21 an undertaking with a surety or sureties satisfactory to
22 the Secretary for payment to his employees of an amount
23 sufficient to compensate such employees for the dif-
24 ference between the wages they actually receive and the
25 wages to which they are entitled under this subsection.

1 *The Secretary shall be empowered to enforce such under-*
2 *taking and any sums recovered by him shall be held in*
3 *a special deposit account and shall be paid, on order of*
4 *the Secretary, directly to the employee or employees*
5 *affected. Any such sum not paid to an employee be-*
6 *cause of inability to do so within a period of three years*
7 *shall be covered into the Treasury of the United States*
8 *as miscellaneous receipts.*

9 “(3) *In the case of any such employee to whom sub-*
10 *section (a)(5) or subsection (b) would otherwise apply,*
11 *the Secretary shall within sixty days after the effective date*
12 *of the Fair Labor Standards Amendments of 1966 appoint a*
13 *special industry committee in accordance with section 5 to*
14 *recommend the highest minimum wage rate or rates in ac-*
15 *cordance with the standards prescribed by section 8, but not*
16 *in excess of the applicable rate provided by subsection (a)*
17 *(5) or subsection (b), to be applicable to such employee in*
18 *lieu of the rate or rates prescribed by subsection (a)(5) or*
19 *subsection (b), as the case may be. The rate or rates recom-*
20 *mended by the special industry committee shall be effective*
21 *with respect to such employee upon the effective date of the*
22 *wage order issued pursuant to such recommendation but not*
23 *before sixty days after the effective date of the Fair Labor*
24 *Standards Amendments of 1966.*

25 “(4) *The provisions of section 5 and section 8, relating*

1 to special industry committees, shall be applicable to review
2 committees appointed under this subsection. The appoint-
3 ment of a review committee shall be in addition to and not
4 in lieu of any special industry committee required to be
5 appointed pursuant to the provisions of subsection (a) of
6 section 8, except that no special industry committee shall
7 hold any hearing within one year after a minimum wage
8 rate or rates for such industry shall have been recommended
9 to the Secretary by a review committee to be paid in lieu
10 of the rate or rates provided for under paragraph (A) or
11 (B). The minimum wage rate or rates prescribed by this
12 subsection shall be in effect only for so long as and insofar
13 as such minimum wage rate or rates have not been super-
14 seded by a wage order fixing a higher minimum wage rate
15 or rates (but not in excess of the applicable rate prescribed
16 in subsection (a) or subsection (b)) hereafter issued by the
17 Secretary pursuant to the recommendation of a special indus-
18 try committee.”

19 *CONTRACT SERVICES TO FEDERAL GOVERNMENT*

20 *SEC. 305.* Section 6 of such Act is amended by adding
21 at the end thereof the following new subsection:

22 “(e) Notwithstanding the provisions of section 13
23 of this Act (except subsections (a)(1) and (f) thereof),
24 every employer providing services under a contract subject
25 to section 2(b)(1) of the Service Contract Act of 1965 (79

1 *Stat. 1034) or any subcontract thereunder shall pay to each*
 2 *of his employees whose rate of pay is not governed by the Serv-*
 3 *ice Contract Act of 1965 (Public Law 89-286) or to whom*
 4 *subsection (a)(1) of this section is not applicable, wages at*
 5 *rates not less than the rates provided for in subsection (b) of*
 6 *this section.*

7 *FEDERAL EMPLOYEES*

8 *SEC. 306. Section 18 of such Act is amended by insert-*
 9 *ing “(a)” immediately after “SEC. 18.” and by adding at*
 10 *the end thereof the following new subsection:*

11 *“(b) Notwithstanding any other provision of this Act*
 12 *(other than section 13(f)) or any other law, any employee—*

13 *“(1) described in paragraph (7) of section 202*
 14 *of the Classification Act of 1949 (5 U.S.C. 1082(7))*
 15 *whose compensation is required to be fixed and adjusted*
 16 *from time to time as nearly as is consistent with the*
 17 *public interest in accordance with prevailing rates, and*
 18 *any Federal employee in the Canal Zone engaged in em-*
 19 *ployment of the kind described in such paragraph (7),*
 20 *or*

21 *“(2) described in section 7474 of title 10, United*
 22 *States Code, whose rates of wages are established to*
 23 *conform, as nearly as is consistent with the public*
 24 *interest, with those of private establishments in the im-*
 25 *mediate vicinity, or*

1 “(3) employed in a nonappropriated fund instru-
2 mentality under the jurisdiction of the Armed Forces,
3 shall have his basic compensation fixed or adjusted at a
4 wage rate which is not less than the appropriate wage rate
5 provided for in section 6(a) (1) of this Act (except that the
6 wage rate provided for in section 6(b) shall apply to any
7 employee who performed services during the workweek in a
8 work place within the Canal Zone), and shall have his over-
9 time compensation set at an hourly rate not less than the over-
10 time rate provided for in section 7(a) of this Act.”

11 *TITLE IV—APPLICATION OF MAXIMUM HOURS*
12 *PROVISIONS*

13 *PRESENTLY AND NEWLY COVERED EMPLOYEES*

14 *SEC. 401. Section 7(a) of such Act is amended to read*
15 *as follows:*

16 “(a)(1) Except as otherwise provided in this section,
17 no employer shall employ any of his employees who in any
18 workweek is engaged in commerce or in the production of
19 goods for commerce, or is employed in an enterprise engaged
20 in commerce or in the production of goods for commerce,
21 for a workweek longer than forty hours unless such em-
22 ployee receives compensation for his employment in excess
23 of the hours above specified at a rate not less than one and
24 one-half times the regular rate at which he is employed.

1 “(2) No employer shall employ any of his employees
2 who in any workweek is engaged in commerce or in the
3 production of goods for commerce, or is employed in an
4 enterprise engaged in commerce or in the production of
5 goods for commerce, and who in such workweek is brought
6 within the purview of this subsection by the amendments
7 made to this Act by the Fair Labor Standards Amendments
8 of 1966—

9 “(A) for a workweek longer than forty-four hours
10 during the first year from the effective date of the Fair
11 Labor Standards Amendments of 1966,

12 “(B) for a workweek longer than forty-two hours
13 during the second year from such date, or

14 “(C) for a workweek longer than forty hours after
15 the expiration of the second year from such date,
16 unless such employee receives compensation for his employ-
17 ment in excess of the hours above specified at a rate not less
18 than one and one-half times the regular rate at which he is
19 employed.”

20 COMMISSION SALESMAN

21 SEC. 402. Subsection (i) of section 7 of such Act (as
22 so redesignated by section 204(d) of this Act) is amended
23 by adding at the end thereof the following new sentence: “In
24 determining the proportion of compensation representing
25 commissions, all earnings resulting from the application of

1 a bona fide commission rate shall be deemed commissions on
2 goods or services without regard to whether the computed
3 commissions exceed the draw or guarantee.”

4 SEC. 403. Section 7 of such Act is amended to include
5 the following new subsection:

6 “(j) No employer engaged in the operation of a hospital
7 shall be deemed to have violated subsection (a) if, pursuant
8 to an agreement or understanding arrived at between the
9 employer and the employee before performance of the work,
10 a work period of fourteen consecutive workdays is accepted
11 in lieu of the workweek of seven consecutive workdays for
12 purposes of overtime computation and if, for his employ-
13 ment in excess of eight hours in any workday and in excess
14 of eighty hours in such fourteen-day period, the employee re-
15 ceives compensation at a rate not less than one and one-half
16 times the regular rate at which he is employed.”

17 TITLE V—HANDICAPPED WORKERS

18 SEC. 501. Section 14 of the Fair Labor Standards
19 Act of 1938 is amended by inserting “(a)” after “SEC. 14.”
20 and by amending clause (2) of subsection (a) to read as
21 follows: “(2) subject to the special provisions in subsections
22 ‘(b)’ and ‘(c)’, the employment of individuals whose earning
23 capacity is impaired by age, or physical or mental deficiency
24 or injury, under special certificates issued by the Secretary,

1 at such wages lower than the minimum wage applicable under
2 section 6 and for such period as shall be fixed in such
3 certificates.”

4 SEC. 502. Section 14 of the Fair Labor Standards Act
5 of 1938 is further amended by adding the following new sub-
6 sections at the end of subsection (a):

7 “(b) Handicapped workers employed in sheltered
8 workshops shall be paid wages commensurate with those
9 paid nonhandicapped workers in industry in the vicinity
10 for essentially the same type, quantity, and quality of work,
11 but not less than the wages specified in the special certifi-
12 cates issued under clause (2) of subsection (a), subject
13 to the provisions of this subsection and subsection (c):
14 Provided, That effective January 1, 1967, no certificate
15 shall be issued under clause (2) of subsection (a) which
16 shall permit the payment to handicapped workers employed
17 in sheltered workshops of wages at a rate lower than 50
18 per centum of the minimum wage applicable under section
19 6 of this Act; beginning January 1, 1968, such wages shall
20 not be less than 75 per centum of such minimum wage; and
21 beginning January 1, 1969, such wages shall not be less
22 than the minimum wage in effect under section 6 of this
23 Act; but in no instance shall handicapped workers employed
24 in sheltered workshops receiving wages in excess of the pre-
25 scribed minimums be reduced to the prescribed minimums.

1 *"The Secretary, pursuant to regulations which he shall*
2 *prescribe, may issue special certificates for less than the*
3 *minimum wage requirements under this subsection in pro-*
4 *portion to the worker's productivity:*

5 *"(1) In the case of handicapped workers engaged*
6 *in training or evaluation programs, where their work is*
7 *incidental to such programs, and such regulations shall*
8 *specify time limitations and other criteria which shall be*
9 *conditions for the issuance of such special certificates;*
10 *and*

11 *"(2) Under exceptional circumstances, and such*
12 *regulations shall specify and describe the term 'excep-*
13 *tional circumstances' which shall include multihandi-*
14 *capped individuals and those individuals so severely*
15 *impaired that they are unable to engage in competitive*
16 *employment.*

17 *"The State agency administering or supervising the*
18 *administration of vocational rehabilitation services shall cer-*
19 *tify to the Secretary those handicapped individuals for whom*
20 *special certificates may be issued under (1) and (2) above,*
21 *and said certifications shall be reviewed annually by the*
22 *Secretary.*

23 *"(c) The Secretary shall establish a new classification*
24 *which shall be called work activity centers, and which shall*

1 be distinguished from the sheltered workshops covered by sub-
2 sections (a) and (b) of this section in that said centers shall
3 be planned and designed exclusively for handicapped work-
4 ers whose physical or mental impairment is so severe as to
5 make their productive capacity inconsequential.

6 "The Secretary is directed to conduct a study by Jan-
7 uary 1, 1968, to establish a formula for determining equi-
8 table compensation for handicapped workers employed in
9 work activity centers.

10 "Only handicapped workers whose productive capacity
11 has been evaluated and certified to the Secretary as incon-
12 sequential by the State agency administering or supervising
13 the administration of vocational rehabilitation services shall
14 be employed in a work activity center, and such certifications
15 shall be reviewed annually by the Secretary.

16 "Pending the development of such formula, the Secretary
17 is directed to approve special certificates for less than the
18 minimums applicable under section 6, or subsections (a)
19 and (b) of this section."

20 SEC. 503. There are hereby authorized to be appropri-
21 ated such sums as may be necessary for the administration
22 of the provisions of this Act by the Secretary of Labor and
23 by the Secretary of Health, Education, and Welfare.

24 SEC. 504. The Secretary of Labor is hereby instructed

1 to commence immediately a complete study of wage pay-
2 ments to handicapped clients of sheltered workshops and of
3 the feasibility of raising existing wage standards in such
4 workshops. The Secretary is further instructed to report
5 to the Congress by July 1, 1967, the findings of such study
6 with appropriate recommendations.

7 *TITLE VI—STATUTE OF LIMITATIONS; EFFEC-*
8 *TIVE DATE; AND STUDY*

9 *STATUTE OF LIMITATIONS*

10 *SEC. 601. (a) Section 16(c) of such Act is amended*
11 *by striking out "two-year statute" and by inserting in lieu*
12 *thereof "statutes".*

13 *(b) Section 6(a) of the Portal-to-Portal Act of 1947*
14 *(Public Law 49, Eightieth Congress) is amended by insert-*
15 *ing before the semicolon at the end thereof the following: "*
16 *except that a cause of action arising out of a willful viola-*
17 *tion may be commenced within three years after the cause*
18 *of action accrued".*

19 *EFFECTIVE DATE*

20 *SEC. 602. Except as otherwise provided in this Act, the*
21 *amendments made by this Act shall take effect on February*
22 *1, 1967. On and after the date of the enactment of this Act*
23 *the Secretary is authorized to promulgate necessary rules,*

1 regulations, or orders with regard to the amendments made
2 by this Act.

3 *STUDY OF EXCESSIVE OVERTIME*

4 *SEC. 603. The Secretary of Labor is hereby instructed*
5 *to commence immediately a complete study of present prac-*
6 *tices dealing with overtime payments for work in excess*
7 *of forty hours per week and the extent to which such over-*
8 *time work impedes the creation of new job opportunities*
9 *in American industry. The Secretary is further instructed*
10 *to report to the Congress by July 1, 1967, the findings*
11 *of such survey with appropriate recommendations.*

12 *TITLE VII—INCREASE IN WITNESS FEES*

13 *SEC. 701. The first sentence of section 1821, title 28,*
14 *United States Code, is amended to read as follows: "A wit-*
15 *ness attending in any court of the United States, or before*
16 *a United States commissioner, or before any person author-*
17 *ized to take his deposition pursuant to any rule or order*
18 *of a court of the United States, at any time shall receive for*
19 *each hour or fraction of an hour of such attendance, and*
20 *for each hour or fraction of an hour necessarily occupied*
21 *in going to and returning from the same, compensation at a*
22 *rate equal to the minimum hourly wage rate prescribed at*
23 *such time by section 6(a)(1) of the Fair Labor Standards*
24 *Act of 1938, as amended, but not less than \$4 per day for*

1 *each day of such attendance or travel, and shall receive 8*
2 *cents per mile for going from and returning to his place*
3 *of residence.”*

4 *SEC. 702. The amendment made by this title shall take*
5 *effect on the first day of the third month beginning after*
6 *the date of enactment of this Act.*

Passed the House of Representatives May 26, 1966.

Attest:

RALPH R. ROBERTS,

Clerk.

[Report No. 1487]

AN ACT

To amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

MAY 27, 1966

Read twice and referred to the Committee on Labor
and Public Welfare

AUGUST 23, 1966

Reported with an amendment

In fact, we are joining in a system with our sister states of Maryland, Virginia and North Carolina—all rich in resources and energetic people.

And the power that originates at this plant will be used to light homes and industries in a region from Mt. Storm to Alexandria, and Arlington, and Richmond, and the Shenandoah Valley—enough power to supply the needs of 2 million residential customers.

In providing at least 100 new jobs, this facility also brings with it new recreational uses of Stony River—and a four-mile long lake that provides recreational opportunities for families in this area and many visitors.

This entire area is becoming a new center for recreation use.

Mt. Storm and nearby Petersburg are located on the periphery of West Virginia's most unique recreational resource, the Potomac Highlands.

Here, we find a combination of opportunities for hunting, fishing, camping, canoeing, and sightseeing—opportunities that actually are unparalleled in the Eastern United States.

And the increase in out-of-state visitors to the Highlands during the past few years tells us that the people of the eastern seaboard are rapidly discovering this area and spreading the word of its growth and grandeur to their friends.

The development of the Appalachian Highway system will provide an easy access to the Highlands from any point in the Eastern United States.

This east accessibility will greatly increase the number of tourists coming through Petersburg and Mt. Storm on their way in and out of the highland region.

Both Petersburg and Mt. Storm can become important service centers for these visitors.

Near here also is Gorman, the beginning of the Scenic Highway—a valuable link in our road system—made possible by Senator RANDOLPH's sponsorship of the enabling legislation.

And, this area's recreational potential also will be enhanced by development of a year-around recreational complex in the Canaan Valley.

The potential also exists for development of a winter sports complex, and both will have a tremendous impact on the area's economy.

The White Water Weekend events at Petersburg already are important to that community at an otherwise slack time of year for tourists.

So the recreational potential of Petersburg and Mt. Storm are unlimited, if all of us are willing to adapt to the tourist industry's needs.

We have Blackwater Falls State Park . . . Cathedral State Park . . . Smoke Hole Caverns . . . Weiss Knob Ski Slope . . . and Canaan Valley.

We also have the Alpine Festival . . . White Water Weekend . . . the Historical and Natural Museum at Davis . . . and the Winter Carnival.

This shows that West Virginia is on the move—and the people of this region are leading the way.

We also have seen road improvements in this area—particularly on Route 93—which represents an important part of my administration's road program to open the previously-inaccessible areas of Tucker and Grant Counties.

Nearly 14 miles of West Virginia 93 have been finished, and the paving of an additional mile between West Virginia 42 and Bismark is slated for completion this year.

As a result of this, a practical artery has been built, and an outstanding scenic attraction has been provided motorists.

The new two-lane route, which has a construction cost of nearly \$3 million, not only crosses the dam here to serve Vepco but it

also opens the Canaan Valley for further development.

So what we observe here today is the dawn of a new day for the utility, coal and recreation industry in this part of America—and the beginning of greater things for West Virginia, through the diversification of her natural resources.

As we meet here to thank Virginia Electric and Power Company for its confidence in West Virginia, someone else is working on a project to make gasoline from coal.

As we meet here to pledge Virginia Electric and Power Company our support as it continues to grow and prosper in West Virginia, someone else is figuring out how to cut fuel costs by improving the mine-mouth technique of coal mining.

So we are going to see many new innovations come about in the electric utility industry, as well as in the coal industry, and I believe West Virginia will be in the forefront of both pioneering projects.

To the officials of Vepco, I add to Senator RANDOLPH's welcome by assuring that during the past several months it has been my pleasure to receive periodic reports on your progress. I have looked forward with real anticipation to this day.

On behalf of all our people, I wish you to know that we acknowledge how fortunate we are in having you in West Virginia.

And I also want you to know of our continued support for your pioneering efforts—and I do not say this lightly, because ours are a pioneering people.

We stand side-by-side with you as Vepco progresses—and we in West Virginia will be proud to have you as a partner in progress.

Before closing, it is appropriate to point out with gratification the fact that the Edison Award—the highest available to the nation's investor-owned electric utility industry—was awarded recently to Vepco in recognition of this project.

It was a pioneering award to Vepco in appreciation for the outstanding contribution the company has made to the development of the electric light and power industry for the convenience and benefit of all the people it serves.

We are proud to have you in West Virginia—and our congratulations are extended to all of you in Vepco because of your leadership, your vision, your energy, and because of the confidence you have placed in West Virginia by having the nation's first 500,000-volt transmission system originate here in this plant at Mount Storm.

RESPONSE AND CLOSING REMARKS

(By President A. H. McDowell, Jr. of Vepco)

Thank you Governor Smith for being with us today. We are delighted that your busy schedule permitted you to attend our dedication.

And now, ladies and gentlemen, on behalf of the shareholders, directors, officers and employees of the Virginia Electric and Power Company, it is my honor and privilege to dedicate this superbly engineered and constructed mine-mouth power station to the service of the progressive peoples of the State of West Virginia and the area we are privileged to serve. May it serve as an instrument which will help us toward the full economic development of this part of our great nation.

BENEDICTION

(By Dr. Gordon E. Hermanson)

Thy years, Our God, are throughout all generations. Of old hast Thou laid the foundations of the earth: the Heavens are the work of Thy hands. They shall perish, but Thou shalt endure: Yea, all of them shall wax old like a garment; as a garment shalt Thou change them, and they shall be changed; but Thou art the same, and Thy

years shall have no end. The Lord bless you and keep you. The Lord make his face to shine upon you and be gracious unto you. The Lord lift up His countenance upon you and give you peace in your going out and your coming in—in your lying down and your rising up—in your labor and your leisure—in your laughter and in your tears—until you stand before Him in that day to which there is no sunset and no dawn.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House insisted upon its amendment to the bill (S. 3052) to provide for a coordinated national highway safety program through financial assistance to the States to accelerate highway traffic safety programs, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. KLUCZYNSKI, Mr. WRIGHT, Mr. EDMONDSON, Mr. SWEENEY, Mr. HOWARD, Mr. CRAMER, Mr. HARSHA, and Mr. DON H. CLAUSEN were appointed managers on the part of the House at the conference.

AMENDMENT OF THE PEACE CORPS ACT

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 3418) to amend further the Peace Corps Act (75 Stat. 612), as amended, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Foreign Relations with amendments; on page 1, line 7, after the word "and", to strike out "\$112,150,000" and insert "\$110,000,000"; in line 11, after the word "exceed", to strike out "\$950,000" and insert "\$500,000"; on page 2, line 11, after "Sec. 2", to insert "(a)"; at the beginning of line 15, to strike out "(1)" and insert "(1)"; after line 20, to insert:

(b) The authority contained in subsection (a) shall extend to counsel fees, costs, and other expenses of the types specified therein that were incurred prior to the date of enactment of this Act.

After line 24, to strike out:

SEC. 3. Section 13(a) of the Peace Corps Act, as amended, which relates to the employment of experts and consultants, is amended by striking out "\$75" and substituting therefor "\$100".

On page 3, line 4, after "Sec.", to strike out "4" and insert "3."; in line 10, after

the word "substitute", to strike out "therefor", and insert "thereof"; in line 11 after "Sec.", to strike out "5" and insert "4"; in line 15 after "Sec.", to strike out "6" and insert "5"; in the same line after the amendment just above stated, to strike out the period; on page 4, after line 5, to strike out:

SEC. 7. (a) The Peace Corps Act, as amended, is amended to add immediately after title I thereof a new title as follows:

"TITLE II SCHOOL-TO-SCHOOL PARTNERSHIPS AND EXCHANGE PEACE CORPS
"Declaration of purpose

"SEC. 201. The Congress declares that it is the policy of the United States and a further purpose of this Act to promote world peace and friendship through school-to-school partnerships under which United States schools and organizations shall help schools and organizations of interested countries and areas to meet their educational and other community needs, and through an Exchange Peace Corps, which shall make available to United States schools and organizations men and women of interested countries and areas, qualified for service in the United States to help those schools and organizations in meeting their needs for trained manpower, to provide those men and women with experience that on their return will be valuable to their countries or areas, and to help promote a better understanding of their peoples on the part of the American people and a better understanding of the American people on the part of other peoples.

On page 5, after line 2, to strike out:

Exchange Peace Corps volunteers

SEC. 202. Such provisions of this or any other Act relating to volunteers, volunteer leaders, or applicants for enrollment as the President determines to be appropriate shall be applicable to Exchange Peace Corps volunteers: *Provided, however,* That as applied to Exchange Peace Corps volunteers the term "abroad" in subsection 5(d)(2) of this Act shall mean outside of their country or area: *Provided further,* That for the purposes of section 42 of the Federal Employees' Compensation Act (5 U.S.C. 793) Exchange Peace Corps volunteers shall be deemed not to be citizens or residents of the United States, any territory or Canada and injuries to them, wherever occurring, shall be deemed to occur outside the United States in their countries or areas.

(b) (1) Section 9 of the Peace Corps Act, as amended, which relates to participation of foreign nationals, is amended by striking out "and" immediately after "volunteers" and by inserting "and to carry out the purposes of title II of this Act," immediately after "where appropriate," in the first sentence.

At the beginning of line 24, to strike out "(2)" and insert "Sec. 6."; and, on page 6, after line 3 to strike out:

(3) Section 15(d)(7) of the Peace Corps Act, which relates to the utilization of funds for unforeseen emergencies or contingencies, is amended by striking out "arising in the Peace Corps".

So as to make the bill read:

That section 3(b) of the Peace Corps Act, as amended, which authorizes appropriations to carry out the purposes of that Act, is amended as follows:

(a) Strike out "1966" and "\$115,000,000" and insert in lieu thereof "1967" and "\$110,000,000", respectively.

(b) Strike out ", of which not to exceed \$500,000 shall be available for carrying out research" and insert in lieu thereof ": *Provided, however,* That not to exceed \$500,000 of funds made available hereunder for fiscal year 1967 shall be obligated under contracts or agreements to carry out re-

search: *Provided further,* That no such contracts or agreements shall be executed unless the research in question relates to the basic responsibilities of the Peace Corps."

(c) Add a second sentence as follows: "Unobligated balances of funds made available hereunder are hereby authorized to be continued available for the general purposes for which appropriated and may at any time be consolidated with appropriations hereunder."

SEC. 2. (a) Section 5 of the Peace Corps Act, as amended, which relates to Peace Corps volunteers, is amended to add immediately after the end thereof a new subsection as follows:

"(1) Notwithstanding any other provision of law, counsel may be employed and counsel fees, court costs, bail, and other expenses incident to the defense of volunteers may be paid in foreign judicial or administrative proceedings to which volunteers have been made parties.

(b) The authority contained in subsection (a) shall extend to counsel fees, costs, and other expenses of the types specified therein that were incurred prior to the date of enactment of this Act

SEC. 3. Section 15 of the Peace Corps Act, as amended, which relates to utilization of funds, is amended as follows:

(a) In subsection (c), strike out "7(c)(2)" and substitute therefor "7(a)(2)".

(b) In subsection (d)(4), strike out "7(e)" and substitute thereof "7(c)".

SEC. 4. Section 25(b) of the Peace Corps Act, as amended, which defines the term "United States" for the purposes of that Act, is amended by striking out "and territories".

SEC. 5. (a) Section 16 of the Peace Corps Act, as amended, which relates to appointment of persons serving under prior law, section 20 of the Peace Corps Act, as amended, which relates to moratorium on student loans, section 21 of the Peace Corps Act, as amended, which amends the Civil Service Retirement Act, and title II of the Act, which relates to Internal Revenue Code and Social Security Act amendments, are hereby repealed.

(b) Such repeal shall not be deemed to affect amendments contained in such provisions and the application of the amendments contained in the title. All determinations, authorization, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the provisions of law repealed by subsection (a) shall continue in full force and effect until modified by appropriate authority.

SEC. 6. Section 10(a)(3) of the Peace Corps Act, as amended, which relates to the acceptance, employment and transfer of gifts, is amended by inserting "or transfer" immediately after "and employ" and by striking out all that appears between "or otherwise" and "; and".

ORDER OF BUSINESS—CONSIDERATION OF MINIMUM WAGE ACT

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that upon final disposition of the pending business, or when reported, H.R. 13712, the Minimum Wage Act, be made the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG of Louisiana. Mr. President, I understand that the Senator from Alaska [Mr. GRUENING] plans to address himself to a subject that is not germane to the pending measure. I wish to ask the Senator from Alaska [Mr. GRUENING] how much time he will require to make his address.

Mr. GRUENING. Approximately one-half hour.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the Senator from Alaska [Mr. GRUENING] may proceed on this subject notwithstanding the germaneness rule, for one-half hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRUENING. I thank the distinguished acting majority leader.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that, immediately upon the completion of the speech of the Senator from Alaska [Mr. GRUENING], the Senator from Arkansas [Mr. FULBRIGHT] be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

OUR OBSOLETE CONCEPTS ABOUT NATO—1949 SOLUTIONS FOR 1966 FACTS

Mr. GRUENING. Mr. President, President Charles de Gaulle's request to the United States that its NATO-committed troops stationed in France be removed may prove to be a blessing in disguise. It may be just the therapeutic shock the United States has long needed to force it to take a hard look at the concepts underlying the coming into being of NATO in 1949 to see whether those facts fit the realities of 1966.

The world of 1966—for better or worse—is a far different place than the world as it existed on April 4, 1949, when the NATO Treaty was signed.

Let us take a quick, overall look at the state of the world on that day to get some idea of the situations which the NATO Treaty was intended to meet, at least in part.

First. On April 4, 1949, the United Nations was less than 3 years old and whether it would succeed or fail as did its predecessor the League of Nations, was an unanswered and unanswerable question. Already the Soviet Union had cast 23 votes vetoing various questions before the United Nations Security Council.

Second. On April 4, 1949, Soviet Russia's Cominform had already been functioning for 2 years as an agency of international revolutionary communism reviving the theme of the capitalist menace. At the founding of the Cominform in 1947, Communist Party leader Zhdanov had declared a permanent "cold war" against the West saying:

A new alignment of political forces has arisen . . . a division of political forces operating on the international arena into two major camps; the imperialist and anti-democratic camp on one hand; and the anti-imperialist and democratic camp on the other.

Third. On April 4, 1949, the blockade of Berlin and the U.S. airlift were still on and were destined to continue for over 5 months;

Fourth. On April 4, 1949, Communist Parties in France and Italy had already been told to foment strikes—which they did—against the Marshall plan;

Fifth. On April 4, 1949, the Soviet Union had already set up peoples republics

man at his peril, disagrees with the power elite.

LOYALTY TEST

Say it ain't so that Americans must remain mute when their lives, their fortunes and their sacred honor have been pledged to the support of arrogant, wholly unreliable, pipsqueek Vietnamese generals. Surely the great test of loyalty is not the ability to love or admire or back Gen. Nguyen Cao Ky. Because if it is, a vast number of 100 per cent, true-blue Americans are going to flunk it.

Say it ain't so that this great democracy is subtly being transformed into a military oligarchy wherein the Commander in Chief is President by right of military office and not vice versa, as provided for in the Constitution.

These are great days for THINK in Washington. On the same day the President spoke in Chicago, Secretary of State Rusk made a statement in the capital to the effect that the natives are restless—in the United States.

MATTER OF LABEL

They are restless, Mr. Rusk has finally discovered, because of the inability of the South Vietnamese to get together and fight the Viet Cong instead of each other. Multitudes of Americans may feel that Mr. Rusk is lag-gard only in his discovery and his seeming unwillingness to apply the proper name, civil war, to the chaotic situation in Viet Nam.

It has taken Secretary of Defense Robert McNamara five and one-half years in office to discover that the draft is neither fair nor equitable; that it is, in fact, damnably unfair and inequitable.

The President is opposed to the McNamara suggestion of drafting youth for two years of national service in civilian tasks, should military service prove too onerous for draft-card burners. Thus, Mr. McNamara flunks the "single think" test and what happens to him now?

The late New York Mayor La Guardia used to say that when he made a mistake, it was a beaut. But he was a Republican, and thus subject to error.

AMENDMENT OF THE PEACE CORPS ACT

The Senate resumed the consideration of the bill (S. 3418) to amend further the Peace Corps Act (75 Stat. 612), as amended, and for other purposes.

Mr. FULBRIGHT. Mr. President, S. 3418 as reported by the Committee on Foreign Relations should occasion little debate and controversy in the Senate.

It authorizes the appropriation of \$110 million for the fiscal year 1967 operations of the Peace Corps and makes other minor changes in the basic act. The amount recommended compares to an authorization of \$115 million and an appropriation of \$114,100,000 for fiscal year 1966.

At the same time, the Peace Corps plans a reasonable expansion of activities from, 14,800 volunteers abroad or in training at present to 16,000 by the end of the 1967 program year. This expansion will be financed by various savings being made in Peace Corps allowances and costs, for which the Peace Corps is to be commended. The average annual cost per volunteer which was \$9,074 in 1963, has decreased to \$7,853 in 1966 and a further decrease to \$7,631 is estimated in 1967.

One cost component in which there will be little savings is training. The committee has from the beginning recognized that the success of the Peace Corps would depend largely on the care exercised in selection and the adequacy of training. Training costs have risen from \$2,447 per volunteer in 1963 to \$3,739 in 1966 and will decrease to \$3,538 in 1967. In spite of that fact the training period will be lengthened from an average of 11 weeks to 12 weeks.

There are several other amendments to the act approved by the committee. One will authorize the Peace Corps to extend its school-to-school partnership program to countries and areas in which the Peace Corps has no programs. Another will authorize the Peace Corps to employ counsel and pay legal fees and other costs related to the defense of volunteers who are made parties to foreign judicial or administrative proceedings. The committee added a separate section, suggested by Senator JORDAN of North Carolina, to make clear that this authority can be used retroactively. The committee also continued for fiscal year 1967 the ceiling on research of \$500,000. There are additional minor technical amendments involved in S. 3418 which are fully explained in the committee report.

I do want to discuss briefly the exchange Peace Corps which had been proposed by the administration as part of this bill. The committee discussed this proposal at two separate meetings but decided for the time being to strike it from the bill. It was the view of the committee that this idea needed further refinement and detail before the committee would be in a position to pass on its merits and that, in any case, the Mutual Educational and Cultural Exchange Act contained authority, particularly in section 192(b)(5), to undertake such a program if the administration deems it desirable. The committee's action therefore, was no out-of-hand rejection of this proposal but a desire to have a clear idea of how it would work and authorities do exist to determine this, if a decision is made to use them. Concomitant with its action, the committee reduced the executive branch authorization request by approximately the amount which was to be allotted to the Exchange Peace Corps program.

About the Peace Corps generally, it has passed another year of handling itself well and of being a credit to the United States and the men and women who participate in it. On behalf of the Committee on Foreign Relations I recommend that the Senate pass S. 3418.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. JAVITS. Mr. President, the Senator from Arkansas [Mr. FULBRIGHT] sometimes has a way of saying very important and significant things so quietly that they are overlooked. I would hope that the Senator would emphasize the fact that what the committee did was in the exercise of prudent judgment and not a turndown of the basic idea. On

the contrary, the committee considers itself to be seized with the basic idea and sees the possibilities in it, and through the executive branch hopes it will pursue the matter so that something can really be made of it. I think it is important that we do not spurn that kind of possibility but treat it as the Senator has described in his presentation.

Mr. FULBRIGHT. The Senator is quite right. What he says is very largely the case. In addition, it is believed that the Peace Corps Director agrees that for the preliminary project it is highly feasible. So there is existing authority under existing law for the pilot project, but it had authority to go far beyond that. There is no doubt that this is the prudent way to proceed, and the Director agrees.

Mr. JAVITS. I understand. But by this turndown, it will not inhibit him, will it?

Mr. FULBRIGHT. Not under existing authority of another law.

Mr. JAVITS. Fine. I thank the Senator.

Mr. President, I have been around the world a great deal, especially in Latin America, and I must say that I really glow with pride over the Peace Corps. There are some projects which do not measure up to their practices, but there are many difficulties and, I will admit, a certain amount of boondoggling, but it is really minimal in this case.

I wish the Senator had been with me in the uplands of Peru, for example, to have seen six young American girls operating Peru's Indian villages, located on a great pampas, a very depressing and poor area of that country. How they worked so hard to earn the love and respect of those Indians there is something to make the American soul soar.

We cannot pay enough tribute to the idealism, the patriotism, and the will of these young people. Anything that we can do to add to the approval which our Peace Corps members receive is our fundamental and bounden duty to do. I have seen the Peace Corps work in Latin American countries in barrios, in slums, as well as in Indian villages. I have seen them work in other parts of the world, in the Far East and on the European Continent, and I have only the highest feeling of satisfaction that they are Americans and represent the youth of our land.

I would feel deeply remiss as a Senator if I failed to join the Senator in paying our Peace Corps volunteers the most eloquent tribute possible in connection with the pending bill.

Mr. FULBRIGHT. I am very glad that the Senator has expressed himself as he has. I quite agree with what he says. One would have to go to see them in all these places to know that they have become successful, because there have been so few complaints from any countries as to the administration or the actual participation in the program.

I quite agree with the Senator that this is one of the few programs that I take pride in, in contrast to some others, in which our libraries have been burned down and we have been condemned generally.

The Peace Corps is a great success, I am happy to agree with the Senator. I agree with everything he says about the Peace Corps. Its great success, I am sure, will continue.

Mr. AIKEN. Let me say that the Peace Corps has received as few complaints as any agency of Government.

Mr. FULBRIGHT. It is like the exchange program. There have been very few complaints about it.

Mr. JAVITS. The Senator from Arkansas is very proud of that.

Mr. FULBRIGHT. To me, that is very much the same thing.

Mr. AIKEN. The exchange program, however, is not an agency of the Government. I do not know who runs it, but he is doing an excellent job, and the program does work.

Mr. FULBRIGHT. Charles Frankel is its present head. He is Assistant Secretary of State for Educational and Cultural Affairs.

Mr. JAVITS. While we are taking a little "ease" here, let me tell the Senator from Arkansas that I am trying another idea for size, somewhat on the reverse order of the Fulbright scholarships. That is to make available funds from hard currency in return for soft currency for students to study in this country from countries which have soft currency which would be useful to us.

We could start that as a kind of modest program in the hope that it would encourage more foreign student activity of a desirable kind in the United States.

Mr. FULBRIGHT. I thank both Senators from New York and Vermont for their comments.

The PRESIDING OFFICER (Mr. Russell of South Carolina in the chair). The question is on agreeing to the committee amendments.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the amendments be agreed to en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended, so as to read: "A bill to amend the Peace Corps Act (75 Stat. 612), as amended, and for other purposes."

Mr. JAVITS. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. FULBRIGHT. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, the Peace Corps legislation which we have just passed in this body without dissent has become an institution of great prestige in our country—and justly so. Under the leadership of the distinguished junior Senator from Arkansas, the eminent chairman of the Committee on Foreign Relations [Mr. FULBRIGHT], the

full force and effect of the original concept and design of the program has never been untracked. The fact that the bill passes without dissent is a testimonial to the soundness of the program as well as to the confidence of the Senate in the product of the Foreign Relations Committee and its chairman.

Equally high commendation is to be afforded to the ranking minority member of the committee, the distinguished senior Senator from Iowa [Mr. HICKENLOOPER] for his cooperation and assistance within the committee and on the floor in assuring this expeditious action today.

The Senate as a whole is indebted to these men and to all members of the committee for their effort, in assuring this swift passage today.

ORDER OF BUSINESS—MINIMUM WAGE BILL

Mr. MANSFIELD. Mr. President, what is the pending business? Has permission been given to lay down the minimum wage as the pending bill, after consideration of the Peace Corps bill?

The PRESIDING OFFICER. Yes; but it has not been reported yet. There is no pending business at this time.

Mr. MANSFIELD. Mr. President, no action on the minimum wage bill will be taken until tomorrow.

I have been informed by the ranking member of the Committee on Labor and Public Welfare that all the reports on the minimum wage bill will be on the desks of Senators tomorrow.

COMMITTEE MEETINGS DURING SENATE SESSION TOMORROW

On request of Mr. MANSFIELD, and by unanimous consent, all committees were authorized to meet during the session of the Senate tomorrow until 12 o'clock noon.

ORDER OF ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate concludes its business today, it adjourn until 10 o'clock a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, these requests which I have just made have all been cleared with the minority leader.

OF TIME AND THE RIVER—ARIZONA'S FUTURE AT STAKE

Mr. FANNIN. Mr. President, "Of Time and the River" was the title given by the late Thomas Wolfe to a major novel of the 20th century. In a few words that phrase expresses the hope and concern of Arizona today—hope for the river and concern that time is running out.

The river I want to discuss today is the Colorado—and to the people of Arizona, there is no other river. The Colorado is to the citizens of my state as the Jordan is to the people of Israel or the Nile to

the people of Egypt. It is to the Colorado that we must look for our salvation.

In the arid sweep of the vast Southwest, water literally is salvation—and, for us, there is no other salvation but the Colorado.

The river is there, timeless and renewable. Of time for Arizona, however, there is precious little remaining.

There is neither time nor any need for me to recite the long and often turbulent history of Colorado River development and its vital role in the expanding economy of the entire Rocky Mountain-Pacific Southwest region.

Many Senators know that story well, and there are none who know it so intimately as my colleague, the distinguished Senator from Arizona, who is the dean not only of the Senate but of Colorado River authorities as well.

Beginning with the first giant step of Hoover Dam, he has been personally involved in every piece of legislation that made possible the modern miracles of productive farms and gleaming new cities in the Southwest.

I can assure the Senate that my esteemed senior colleague concurs in the remarks I want to make today about pending legislation which is so urgently needed to achieve the maximum beneficial use of the water of the Colorado.

We have introduced legislation in the form of S. 75 to accomplish that objective. Meanwhile, similar legislation reflecting an unprecedented unity of approach on the part of virtually all representatives of Colorado River Basin States is progressing in the other body.

After extensive hearings and searching review, the House Interior and Insular Affairs Committee has reported an amended version of H.R. 4671, the Colorado River Basin Project Act.

It is my earnest hope that a bill embodying essential features of an acceptable and workable Colorado River project, including the long-overdue central Arizona project, will soon be adopted by the House and sent to the Senate. That is why I want to further acquaint Members of the Senate with some of the recent and admittedly confusing developments related to this complex legislative effort.

In all humility, and yet with the firm conviction that Arizona's position in this matter is just and right, I must respond to the extraordinary campaign of deceit and falsehood that is being waged against further development of the resources of the Colorado River.

As so often happens, truth was the first casualty in this propaganda war against dams on the Colorado. And when the truth is obscured, it is far easier for emotion to overcome reason.

All I ask of my colleagues in the Congress is a willingness to consider the facts in open competition with deliberate deception.

First, I want to recount briefly why and how this legislation evolved. Then I shall comment in some detail about the misguided efforts of a tiny privileged minority to wreck the legitimate aspirations of 30 million Americans who live in the 7 Colorado River Basin States.

The Indians of Arizona know very well what happens to a society when its water supply is diminished or disappears. Around them are the crumbling ruins of their ancestors—including the outline of primitive irrigation structures that can still be seen. They stand as powerful reminders of vanished people—civilizations that withered and died or moved on when the water was gone.

The sad part of Mr. Brower's extreme arguments against this project is the fact that he makes them in the name of conservation.

But let me remind my colleagues that true conservation in the American tradition does not mean the preservation of exclusive privilege for one small group of citizens.

On the contrary, opportunities for the enjoyment of nature and its wonders have been extended to virtually all Americans through the multiple-purpose concept of resource utilization.

All of us know these opportunities must be expanded in light of current and projected population pressures on our available facilities. Hualapai Lake would be a major step in this direction.

Given our experience with Lake Mead and Lake Powell, we know that Hualapai Lake would soon develop into one of the most popular attraction in the Nation.

Lake Mead is a priceless recreational asset because of its proximity to urban centers of the most populous State in the union and adjacent States. With metropolitan concentrations growing rapidly in the Southwest, Hualapai Lake—like Lake Powell and Lake Mead today—would be another welcome bonanza for boating, fishing and camping enjoyment.

Public response to Lake Powell, for example, has been amazing, when you consider that it began filling only 3 years ago and visitor facilities are still limited.

Some 196,400 persons visited Lake Powell the first year. Attendance climbed to 303,500 the next year, and as additional accommodations and marina facilities are completed, the figures will climb steadily higher. Already, in the first 7 months of 1966, attendance is reported over the 1965 pace.

There is a curious anomaly in Mr. Brower's propaganda which deserves comment. On behalf of the Sierra Club, he professes to support Arizona's quest for supplemental water. I might say that with friends like this, we do not need enemies.

His ads tells us to forget the dams. They say: "Go ahead and build the central Arizona project and use conventional steam generating plants to provide the necessary pumping energy. Besides, cheap nuclear power is just around the corner."

To the naive and uninformed, this sounds fine. But it just is not true—and wishful thinking cannot change fiction into fact.

I can assure the Senate that the positive economic case for the dams will be documented, and the fallacious arguments against them exposed, as we proceed with the consideration of this project.

For now, I would remind Mr. Brower that steam generating plants require fuel—coal, oil, natural gas—or some form of fissionable material, in the case of nuclear reactors.

All of these, uranium included, are depletable and nonrenewable resources. Their unnecessary use to perform a function that can more efficiently and economically be performed by inexhaustible falling water surely cannot be justified in the name of conservation.

So far, Mr. President, I have not mentioned the unique provision of this legislation which sets it apart from previous reclamation bills. I refer to the long-range need for increased supplies of water in the Colorado River.

Let me assure my friends in the Pacific Northwest that the question of augmenting the water available in the Colorado River at some future date merits objective study by the most competent authorities in our land.

You are perfectly within your rights to demand that this proposal be subjected to the most searching examination—and I have no doubt that it will be.

At this point, let me plead with you not to prejudge the case before the facts are in.

We in Arizona do not covet one drop of somebody else's water which they can put to beneficial consumptive use, either now or in the foreseeable future.

At the same time, we know that the disparity between total supply and predicted demand in the Colorado Basin is only a reflection of a national, not a local, problem.

The extra water that Phoenix, Tucson, Flagstaff, Williams, Ash Fork, and Casa Grande need today, New York and Washington will need tomorrow.

Experience has taught us that the longer we delay in mounting a coordinated national attack on our water supply and distribution problems, the more difficult and expensive they will be to solve.

Action now to meet our water needs in the year 2000 and beyond is not a visionary step. It is a practical necessity.

Finally, Mr. President, on behalf of Arizona, let me repeat that the river runs on but our time is running out.

It is my earnest hope that the House of Representatives will soon act on the bill reported by its Interior and Insular Affairs Committee and thereby provide the Senate with an opportunity for adequate consideration of this legislation at this session.

Congressional approval of this vitally needed project will usher in a bright new era of progress and prosperity for the entire Colorado River Basin.

For myself and my senior colleague, the beloved President pro tempore of the Senate, we ask only that you make your judgment on this legislation squarely on the basis of the facts that will be presented.

We are perfectly willing to match the combined legal, engineering, and economic recommendations of a quarter-century of study against the desperate distortions of those who represent less than one-hundredth of 1 percent of the American people.

And we have confidence that the Senate, as it has twice before, will make the proper determination.

Mr. FANNIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MUSKIE in the chair). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RUSSELL of South Carolina. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORLD OPINION ON U.S. POSITION IN VIETNAM

Mr. RUSSELL of South Carolina. Mr. President, I know that all of us have been very interested in listening to the many statements indicating that, so far as world opinion is concerned, our policy in Vietnam is looked at with extreme skepticism, if not with open hostility and criticism.

I was therefore quite interested to read the lead editorial in the current issue, August 20, 1966, of the London Economist entitled "This Is the Third World War."

This is a very excellent editorial. It is one which I think should commend itself to those of us who are concerned with the events in Vietnam. I think it is also a very strong endorsement in large part of the American position in connection with Vietnam.

Mr. President, I ask unanimous consent that this editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THIS IS THE THIRD WORLD WAR

There is no Mao but Mao, and Lin Piao is his prophet. That is what the past week's events in Peking (see page 719) boil down to. The communiqué from the Chinese communists' central committee at the weekend, followed by the ominously martial rally in Peking on Thursday, with a uniformed Mao Tse-tung presenting his "close friend in combat" Lin Piao to the people, mark out unmistakably the path Mao means China to follow. It was predictable that the central committee, in the sort of words Stalin once made Russians use about him, would duly declare Mao Tse-tung a genius, "the greatest marxist-leninist of our era." After the Mao-organised purges of the last four months, and his baptism in the Yangtse last month, this was inevitable. Like all monopolists of temporal power, from the Roman emperors to Stalin, Mao is spending his last years in arranging to become a god.

What was not inevitable is the emergence of Marshal Lin Piao as China's number two, and the meaning this has for China's foreign policy. The only other Chinese mentioned by name among the ecomiunists to Mao in the central committee's communiqué—and twice at that—is Lin Piao. At Thursday's rally in Peking it was Lin Piao who took precedence immediately after Mao himself, before the country's president and prime minister and the communist party's secretary-general. It was Lin Piao who made the main speech under the approving gaze of Chairman Mao. Sick man or not, palely self-effacing or not, the defence minister has risen to the rank of Mao's chief assistant and his successor-ap-

parent. He has done this partly because he can speak for the army, and partly because he has loyally used the army as a guinea-pig for the "cultural revolution" dose of salts with which Mao is now purging the whole country. But Lin Piao has probably risen for another reason too, and this is bad news.

A year ago Lin Piao wrote the famous article, "On People's War," which said that China's foreign policy was to encourage guerrilla wars in the "countryside of the world"—Asia, Africa and Latin America—in order to encircle and destroy the imperialists in the "cities of the world," north America and western Europe. The year that has passed since Lin Piao wrote his article has been a bad one for China's foreign policy, in Indonesia, in Africa and now even in North Korea (see page 721). It would have been reasonable to expect China to whistle its revolutionary tune under its breath this year. Not a bit of it. The central committee has picked out the Lin Piao article for a pat on the back as a scientific analysis of "the world revolution of our time." And Mao has picked out Lin Piao as his chief assistant. The meaning is clear. Mao Tse-tung, now almost mystical in his certainty, is not backing down one inch from his hopes of ideological expansion.

This is the most important fact about Asia today. It is the background against which the debate on American policy in the Far East has to be measured. Whether the United States has a job to do in Asia is not, at bottom, something to be decided in Washington. It has already been decided in Peking. The Americans were a Pacific power long before they became an Atlantic power. In Europe they have generally had a comforting layer of friendly countries between them and their main potential enemy, Germany or Russia. Across the Pacific there is nothing but cold water. That is why the Americans sent Commodore Perry to Japan a century ago, when all they were asking of Europe was to be left alone by it. It is why they now have virtually no choice but to resist what China is trying to do. No one else can. It will take the other Asians at least a decade to summon up the strength to look after China themselves. The British are still snarled up in the non-sequitur of thinking that belonging to Europe means not belonging to the rest of the world. The Russians took a long step in the right direction at Tashkent this year, when they declared their interest in the stability of the Indian subcontinent; but they have still not been able to bring themselves to say out loud that China's idea of universal revolution is a hell of a way to run the world. They probably will in the end. But meantime the Americans, and the Americans alone, are in a position to do something about the problem-man of the 1960s: Mao the evangelist, with his hot gospel of guerrilla liberation tucked under his arm.

None of this is really in dispute. Mr. Walter Lippmann, the most persistent and intelligent of President Johnson's critics, agrees that it is right for the United States to use its strength to establish a balance of power against the Chinese. The argument is about how much strength will be needed, and where it can best be applied.

It can be argued that in the end the whole business of restraining China's missionary zeal may turn out to be much easier than it looks right now. China is a very poor country indeed. An article on page 720 argues that its chances of ever becoming a rich one, or even of building up a modestly successful industry, are much dimmer than most people have usually assumed. If China does remain a poor country, its hope of inspiring revolutions all around the world will be rationed by the amount of help it can actually send to would-be-revolutionaries. And that, to be fair to Mao, is all he aims

to do. He is not an expansionist in the sense of wanting to push China's own territory beyond what he considers its historic boundaries. He just wants to spread the good word—but "out of the barrel of a gun." Ten years hence, if China is still too poor to export many guns and many missionaries, Lin Piao's thesis about "the revolution of our time" could look as punctured as President Nasser's grandiose aims of the 1950s look now. This is the optimistic way of looking at things. There is nothing wrong with hoping that the worst will not happen. But it is not a basis for policy. You look so stupid if the worst does come. Until and unless there is solid evidence that China does not intend to do what Lin Piao says it want to do, or cannot do it, the only safe assumption for the Americans or anybody else to make is that the Chinese mean every word they say. That is where any sober Asia policy starts from.

That is where it starts from. Did it really have to lead to what is happening in Vietnam? Mr. Johnson's critics say that it need not have done. But lately it has looked very much as if some of the steam has been going out of the critics' arguments. This is not because they like this singularly beastly war any better than they used to. Nobody does. It is because, if one leaves aside the marxists and the honourable pacifists, a good many of the critics are finding it increasingly hard to disagree with the basic premise of Mr. Johnson's policy—that it is at present America's job to try to keep China's evangelism under control. Having accepted that, they then find it increasingly hard to suggest any positive alternative to doing it in Vietnam. And every time Mao Tse-tung does something that seems to justify everybody's worst fears, the critics' job gets that much tougher.

Senator FULBRIGHT, for instance, has not taken direct issue with the policy for Asia that President Johnson spelled out at White Sulphur Springs on July 12th. He preferred to argue that the President ought to have consulted Congress first. It is an argument that would have carried more weight if Mr. Truman had consulted Congress before deciding that the Americans must take over the job of defending Greece and Turkey—the "Truman doctrine"—in 1947. Mr. Lippmann, for his part, has walked into a couple of traps. He tried to argue on July 26th that there is no connection between the guerrilla war in Vietnam ("one small corner of the world") and other possible guerrilla wars that might follow it elsewhere. But Marshal Lin Piao saw the connection all right for China's purposes in the article on "people's war" that the Peking central committee has just commended:

"The people in other parts of the world will see . . . that what the Vietnamese people can do, they can do too."

That was one trap, and Mr. Lippmann dropped into it. The other is bigger and deeper, and goes right down to the fundamental question about the whole war: how can you defend the non-communist parts of Asia unless you are ready to fight a war in Asia? Mr. Lippmann says, quite rightly, that with the single exception of Korea in 1950 the United States has always avoided land wars in Asia like the plague. So he argues that the Americans should discharge their responsibility to the Asians by means of sea and air power alone—which means, in effect, by air power deployed from aircraft carriers and from islands off the Asian mainland. But Mr. Lippmann himself has scathingly pointed out how limited the uses of air power have been in Vietnam. If air power has not yet succeeded in tipping the scales in a war to which the Americans have committed 300,000 troops, how on earth can it protect non-communist Asia all by itself?

The blunt truth is that this is now an academic argument. China has nominated

Vietnam as a test-case for what it claims to be a new kind of war. It is a land war, fought by relatively small formations of very brave men who are prepared to persist for years with the tactics of ambush and terrorism until the other side's nerve cracks. Those who believe that this technique of "people's war" should be opposed, because its aim is to set up an unacceptable form of society, have little choice but to fight it on its own terms: that is, by a land war. It is not the "right war in the right place." Defensive wars seldom are. It is not the sort of war that the Americans will be able to bring themselves to fight time and time again in other parts of the world. But if it comes out right in Vietnam, it will with luck not have to be fought all over again elsewhere. If the dissident minority in South Vietnam fails to take power by force of arms, dissident minorities in other places will think twice before they believe in Lin Piao's tip that they are on to a winner.

But if the technique of "people's war" does succeed in Vietnam, the past week's events in Peking will take on a new light. Those who do not like the war in Vietnam, but equally do not want to see Mao Tse-tung's beliefs sweeping across Asia in a wave of guerrilla wars, have a duty to ask themselves where else they think the wave can be stopped. Thailand? But the non-communist Thais are not going to call for help from a defeated American army, and in any case it is logistically much harder to get help into Thailand than into Vietnam. Burma? Not on the cards. India, then? But the mind swerves away from the difficulty of doing anything to help that fragile country if the guerrillas once get to work in West Bengal or Kerala or wherever.

The fighting in Vietnam, it is said, could grow into the third world war. In a sense, it already is the third world war. It is not by the Americans' choice that this has become a testing-ground for the theories of Mao tse-tung and Lin Piao. It need not have been. If there were any reasonable grounds for thinking that a communist victory in Vietnam would not be followed by communist bids for power in the rest of Asia—starting in Thailand, and moving from there towards India—it would not be necessary to make a stand in Vietnam. It would not be necessary if Lin Piao had not written what he has written, and had not now been given Mao's accolade for writing it. It would not be necessary if Russia were able to assert its authority over the communists of south-east Asia and guarantee that a stable truce line, like the line between the two parts of Germany, could be drawn along the Mekong between a communist Indochina and a non-communist Thailand. If either of those things applied, a deal could be done in Vietnam tomorrow. The only losers would be those South Vietnamese, Buddhists and Catholics alike, who keep on telling anyone who will listen that they do not want to be ruled by communists. It would be a cynical deal; but it could be struck.

The deal the Americans cannot reasonably be asked to strike is one that threatens to sell the pass to the whole of southern Asia. This is Mr. Johnson's enormous problem. It is also the problem of those who criticise his decision to take America into the war. Those of them—an increasing number—who agree that America has a responsibility towards the non-communist nations of Asia cannot dodge the question it poses. How else can you suggest holding the line, if not by fighting in Vietnam?

THE MINIMUM WAGE BILL

AMENDMENT—CHILD LABOR IN AGRICULTURE

Mr. JAVITS. Mr. President, I submit for printing an amendment to H.R. 13712, the minimum wage bill, to provide

for restrictions on child labor in agriculture. This amendment would provide the full protection to which our children are entitled, and would conform the bill to the provisions which the Senate previously adopted in 1961 and again in 1963.

I ask unanimous consent that this amendment be printed in the RECORD.

The PRESIDING OFFICER. The amendment will be received, printed, and lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 759) is as follows:

On page 43, strike out lines 14 through 17 and insert, in lieu thereof, the following:

"(c) (1) The provisions of section 12 relating to child labor shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

"(A) is employed by his parents, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or on a neighboring farm, as defined by the Secretary of Labor, or

"(B) is fourteen years of age or over, or

"(C) is twelve years of age or over and is employed on a farm to which he commutes daily within twenty-five miles of his permanent residence, and (i) such employment is with the written consent of his parent or person standing in place of his parent, or (ii) his parent or person standing in place of his parent is also employed on the same farm. The Secretary may by regulation prescribe maximum working hours and other conditions for the protection of the health and safety of children employed pursuant to this subparagraph (C)."

Mr. JAVITS. Mr. President, I also ask unanimous consent that the supplemental views, which I filed today and which were joined in by Senator HARRISON A. WILLIAMS, JR., and are a part of the committee report on the minimum wage bill, be printed in the RECORD at this point in my remarks, so that they will be available for overnight reading, and Senators may understand the background and reasons for the amendment I have just proposed.

There being no objection, the supplemental views were ordered to be printed in the RECORD, as follows:

SUPPLEMENTAL VIEWS OF MR. JAVITS AND MR. WILLIAMS

CHILD LABOR IN AGRICULTURE

A. The problem

Almost two generations ago, this nation finally outlawed a practice which had become a national scandal—industrial child labor. If anyone in this body has forgotten the practices which, at the turn of the century, built whole industries upon the endless toil of children not yet even in their teens, let him examine the following transcript of the testimony of 8-year-old Helen Susscak answering Pennsylvania Judge Gray's questions about her job in a textile mill in 1911:

"Judge: Helen, what time do you go to work?

"Helen: Half after 6 evenin's.

"Judge: When do you come home from the mill?

"Helen: Half after 6 mornin's.

"Judge: How far do you live from the mill?

"Helen: I don't know. I guess it mostly takes an hour to git there.

"Judge: And the inspector tells me it's across lonely fields exposed to storms that

sweep down the valley. What's your pay, Helen?

"Helen: I gits 3 cents an hour, sir.

"Judge: If my arithmetic is good that is almost 36 cents for a night's work. Well, now, we do indeed find the flesh and blood of little children coined into money."¹

But what we condemned with indignation over a generation ago in the textile mills and industrial plants of this nation we continue to accept in an often equally oppressive form—agricultural child labor. There are the same long hours, the same negligible pay, the same backbreaking work, the same exposure to the elements, the lack of educational opportunity despite the nominal restrictions on working "during school hours"—all the same practices which deprive the child of a real childhood.

Recent hearings by the Senate Migratory Labor Subcommittee revealed case after case of children employed under circumstances closely resembling the textile mill conditions we outlawed so long ago.

For example, the following is the report of Miss Stockburger, chairman of the National Child Labor Committee, testifying in 1963 about her most recent trip to a migrant area:

"When Don came to the school at 1 p.m., he had already worked in the fields from about 4:30 a.m. to 12:30. I asked how many beans he had picked. He replied, '\$6 worth—that's 300 pounds.' Then my comment was, 'Then you must be hungry. Come on, let's go eat lunch.' Don looked up at me and answered, 'Yes'm, I reckon as how I am. I ain't had no breakfast yet.'

"Then there was the 9-year-old girl who was found one hot July afternoon in a cabin ironing. In the course of the conversation she told of having been in the field all morning. When asked how she liked to work in the field she paused in her slow and deliberate strokes with the iron and with great vehemence said, 'I hate it. I hate to pick beans. But I gotta earn my livin.'

"How vividly I recall our dismay when a young mother of five children, all under 6, with whom we had worked for several years brought only her three youngest to the day care center. When asked about the two oldest boys who were 5 and 6, her answer was, 'Oh, Billy and Johnny, I won't be leaving them with you this year. They're old enough to pick.'"²

In a few areas of the country, child labor has become almost a way of life. To cite one example, in the Willamette and Tuatation Valleys and the Hood River area in the heart of Oregon's strawberry area, in 1962 at the peak of the strawberry harvest season there were 66,610 workers employed—and of these, 65% (43,339) were under the age of 14, and 19% (12,000) were under the age of 12.³

But the problem is much more widespread—and infinitely more severe—throughout the areas of the country which employ migrant farm labor. Too often, farm communities make no provision for child day-care centers. They need not bother, for the children are all in the fields—all day long—working alongside their parents. Often the permanent residents of such communities are only faintly aware that these children even exist at all.

B. The proposal

The proposal⁴ considered by the Committee would (1) prohibit the employment of children in agriculture under the age of 12, except on their family farm or a neigh-

¹ U.S. Department of Labor, "Growth of Labor Law in the United States" 1 (1962).

² Hearings Before the Senate Migratory Labor Subcommittee, 88th Cong., 1st Sess., 104-105 (1963).

³ Special Survey, U.S. Department of Labor (1962).

⁴ Amendment No. 606 to H.R. 13712, 89th Cong. 2d Sess. (1966).

boring farm; (2) bar agricultural employment of children between 12 and 14 except on farms within commuting distance of home, and then only with parental consent; and (3) permit the Secretary of Labor to prohibit children under 16 from working at "particularly hazardous" jobs in agriculture.

The Committee accepted the "particularly hazardous" restriction (3), but, by a narrow margin, rejected the other provisions of the proposal.

In short, the Committee's majority is willing to permit any kind of child labor in agriculture—no matter how long the hours, no matter how arduous the work, and no matter how young the child—as long as it is not "particularly hazardous." This decision, grounded in the view that there is a sharp difference between conditions in industry and agriculture, will, unless reversed by the Senate, could, I feel, seriously prejudice many impoverished, undereducated and forgotten children in escaping from an indefinite continuation of their deplorable condition.

C. The controversy

Many Senators are already only too well aware of the crying need to extend child labor laws to agriculture, for the Senate has twice already—in 1961⁵ and 1963⁶—passed substantially the same measure which the Committee by a narrow margin this time rejected. But for those who may not recall or may have missed the debates a few years ago, the following brief resume of the arguments may prove enlightening.

We have been told—and no doubt will be told again this year—that the toll of children in the fields is somehow different from the sweat and strain of children in the textile mills—that it is somehow cleaner, somehow more fun, less dangerous, and really educational—or at least "healthy". The opponents of child labor laws will say this even though the cold facts are that agriculture is the third most dangerous of all our nation's industries, exceeded only by mining and construction in the rate of death caused by on-the-job accidents.⁷ There is a restriction here against "particularly hazardous" occupations for children under 16, but have we the right to make that our standard for young children? The evidence strongly supports the conclusion that much more comprehensive protection is needed.

Nor can it be said that we are dealing with a few middle-class children gambling in the fields, eating strawberries as they go, perhaps to pick up a few dollars for a 4th of July week-end at the beach.

On the contrary, the child we seek to protect is among the most oppressed and deprived of our citizens—the child of a Mexican-American family living far below the poverty level, whose parents, for the lack of a permanent residence, cannot even vote and therefore exert no political influence, whose parents have no legal right to collective bargaining. In sum, this is a child who desperately needs to be brought in from the fields and made a part of the society which the rest of our children take for granted.

But we have been told—as no doubt the opponents of this amendment will tell us again—that federal law already prohibits child labor during school hours and therefore necessarily protects the educational opportunities of farm children. That is simply not the case. A combination of factors, including loose enforcement, particularly as to migrants, plus such practices as "crop vacations,"⁸ has resulted in a very substantial impairment of farm worker education.

⁵ S. 1123, 87th Cong., 1st Sess. (1961).

⁶ S. 523, 88th Cong., 1st Sess. (1963).

⁷ Hearings Before the Senate Migratory Labor Subcommittee, 88th Cong., 1st Sess., 32 (1963).

⁸ Id. at 31.

Secretary Wirtz, testifying before the Migratory Labor Subcommittee last year, reported:

"The degree of difficulty in this situation is, even under the school regulations which we have, investigations which have been made by the Wage and Hour Divisions of the Department of Labor last year covering 2,562 farms disclosed that 7,972 minors under 16 illegally were employed during school hours.

"Twenty percent of that group, 1,578, were 9 years or younger. More than half, over 4000, were 10 to 13 years of age."

D. A growing consensus in support of the amendment

The fact of the matter is that a substantial segment of our agricultural economy—including organizations representing the growers themselves—has endorsed a child labor law for agriculture. The Vegetable Growers Association of America has called this proposal "a very good bill."⁹ The National Council of Agricultural Employers, representing members in 35 States, including individual growers, farm and commodity organizations, and employer associations, has said that "it has no objection to this bill."¹⁰ In addition, of course, those citizens' organizations most closely concerned with the problem have endorsed this proposal in much stronger terms. The National Advisory Committee on Farm Labor endorses this proposal as a "keystone in the war against poverty,"¹¹ the National Consumers League has described this measure as "long overdue,"¹² and the National Council of Farmer Cooperatives supports this measure as essential to the protection of the health of farm children.¹⁴

This proposal is nothing new. The Senate has passed this bill before in even stronger form.

We ought not to look away now from the exploitation of children in agriculture—with all its destructive effects—at the very time when we propose to extend federal minimum wage protection to other deprived groups in our society.

Can it really be said that these children need protection less than garage mechanics, bus drivers, or retail salesmen?

Can it really be said that 10-year-old children working for hours in the fields harvesting the food we eat are any the less exploited than children were 50 years ago manufacturing the clothes we wore?

The limitation on "particularly hazardous" occupations for child labor in agriculture, adopted by the Committee, is a step in the right direction. But the evil in the sweatshops, textile mills and other industries based on child labor in the last century was

not just that they included certain "particularly hazardous" occupations, but that strenuous physical labor, on a regular full-time basis, was found to be *inherently* oppressive for young children.

In agriculture, as in industry long ago, it is the same old practice—perhaps less noticed, but just as harmful—and it ought to be stopped.

JACOB K. JAVITS,
HARRISON A. WILLIAMS, Jr.

AMENDMENT—STUDY OF EMERGENCY STRIKE LAWS

Mr. JAVITS. Mr. President, when the Senate considered the joint resolution on the airliner strike—Senate Joint Resolution 186—I sponsored an amendment, which the Senate adopted, to require the Secretary of Labor to study the emergency labor dispute provisions of our labor laws and to give us recommendations for improvements.

Senators will recall that the President promised in his state of the Union message to make such recommendations, but they have not been forthcoming. As this bill will very likely be the last labor bill this year, and as the airline joint resolution now has become moot, I intend to propose that the same amendment be added to the minimum wage bill.

Accordingly, Mr. President, I submit for printing an amendment to H.R. 13712, and ask that its text also be printed in the RECORD.

The PRESIDING OFFICER. The amendment will be received, printed, and lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 760) is as follows:

On page 69, line 7, insert the following:

"TITLE VIII—STUDY OF EMERGENCY STRIKE LAWS

"SEC. 801. The Secretary of Labor is hereby directed to commence immediately a complete study of the operations and adequacy of the emergency labor disputes provisions of the Railway Labor Act and the Labor-Management Relations Act. The Secretary is further instructed to report to the Congress by January 15, 1967, the findings of such study together with appropriate recommendations for such amendments to the Railway Labor Act and the Labor-Management Relations Act as will provide improved permanent procedures for the settlement of emergency labor disputes."

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1966—REPORT OF A COMMITTEE—INDIVIDUAL AND SUPPLEMENTAL VIEWS (S. REPT. NO. 1487) PENDING BUSINESS

Mr. YARBOROUGH. Mr. President, from the Committee on Labor and Public Welfare, I report favorably the bill H.R. 13712, to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes. The bill contains an amendment in the nature of a substitute.

I submit a report thereon and ask unanimous consent to file individual and supplemental views until midnight, August 23.

The PRESIDING OFFICER. The report will be received and the bill will be placed on the calendar; and, without objection, the report will be printed, as requested by the Senator from Texas.

Pursuant to the previous unanimous-consent agreement, the Chair lays before the Senate the pending business, which the clerk will state.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage and for other purposes.

The Senate proceeded to consider the bill.

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. DIRKSEN. Mr. President, has an order been issued for the convening of the Senate on tomorrow?

The PRESIDING OFFICER. Yes. An order has been entered.

Mr. DIRKSEN. Then I move, under the previous order, that the Senate do adjourn.

The motion was agreed to; and (at 3 o'clock and 34 minutes p.m.), under the previous order, the Senate adjourned until tomorrow, Wednesday, August 24, 1966, at 10 a.m.

NOMINATIONS

The following nominations were received by the Senate August 23, 1966:

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Miles S. McKee, of Michigan, to be a Member of the Advisory Board of the St. Lawrence Seaway Development Corporation, vice Dr. N. R. Danielian.

POSTMASTER GENERAL

Leo S. Packer, of New York, to be an Assistant Postmaster General (new position).

INTER-AMERICAN DEVELOPMENT BANK

W. True Davis, Jr., of Missouri, to be Executive Director of the Inter-American Development Bank for a term of 3 years and until his successor has been appointed.

⁹ Hearings Before the Senate Subcommittee on Migratory Labor, 89th Cong., 1st Sess. 37 (1965). "In one area, local children were enrolled in school, but enrollment of migrants was postponed for 3 weeks so they could harvest cucumbers. Still another State issued special permits to economically deprived children, those who needed education above all else, excusing them from school to pick fruit." Id. at 61.

¹⁰ Id. at 231. (See also id. at 130—National Apple Institute).

¹¹ Id. at 139.

¹² Id. at 199.

¹³ Id. at 217.

¹⁴ Id. at 145-146.

August 24, 1966

17. RECLAMATION. Received from Interior a draft of proposed legislation to amend the Small Reclamation Projects Act; to Interior and Insular Affairs Committee. p. 19576
18. DEFENSE APPROPRIATION BILL. Received the conference report on this bill, H. R. 15941, which includes funds for milk for military personnel which previously has been financed by USDA (H. Rept. 1886). pp. 19502-3
19. PACKAGING. Rep. Nelsen inserted an article which expresses concern that if the truth in packaging bill is passed it will be "the foundation upon which a vast regulatory structure will be based." pp. 19558-9

SENATE

20. ORGANIZATION OF CONGRESS. The Rules and Administration Committee reported with amendments S. Res. 293, to create a special committee on the organization of the Congress (S. Rept. 1490). p. 19579
21. LANDS. The Interior and Insular Affairs Committee reported with an amendment S. 3178, to amend the Taylor Grazing Act in order to eliminate gaps in Interior's exchange authority under the act (S. Rept. 1493). p. 19579
22. PATENTS. The Judiciary Committee reported with amendments S. 2207, to amend the Trademark Act with respect to appeals in patent and trademark cases (S. Rept. 1500). p. 19579
23. INDEPENDENT OFFICES APPROPRIATION BILL. Agreed to the conference report on this bill, H. R. 14921. This bill will now be sent to the President. pp. 19635-41
24. LABOR STANDARDS. Began debate on H. R. 13712, to increase minimum wages and to extend such coverage to additional employees. pp. ~~19582~~, 19616-34, 19645-54
25. FOOD FOR FREEDOM. The Agriculture and Forestry Committee voted to report (but did not actually report) H. R. 14929, the food for freedom bill. p. D798
26. GRAINS. The "Daily Digest" states that the Agriculture and Forestry Committee "rescinded its action of Wednesday, August 3, when it ordered favorably reported S. 3585, to amend the U. S. Grain Standards Act to permit inspection of certain grain on the basis of submitted samples." p. D798
27. COSPONSORS. Senators Hart and Mondale were added as cosponsors to S. 3721, to strengthen the Flammable Fabrics Act, and Sen. Church was added as a cosponsor to S. 3699, the proposed Fair Farm Budget Act. p. 19582
28. INFLATION. Sen. Curtis claimed that "Neither the farmer nor the food industry are responsible for the high cost of living. It is Government policies that are to blame." p. 19594
29. WATER POLLUTION. Sen. Tower spoke in support of S. 3598, the proposed Pollution Abatement Incentive Act of 1966. pp. 19602-3
30. SCHOOL MILK. Sen. Proxmire expressed disappointment in the \$104 million appropriated for the school milk program and stated that he intended to ask for additional funds in a supplemental appropriations bill. pp. 19603-4

31. SOIL SURVEYS. Sen. Williams, N. J., commended House passage of S. 902, to permit this Department to make its soil survey service available to developing urban areas. p. 19607

ITEMS IN APPENDIX

32. ADMINISTRATION. Sen. Scott inserted a statement by Sen. Morton "Outline for Republican Victory," which includes items of interest to this Department. pp. A4466-68
33. FARM PROGRAM. Extension of remarks of Rep. Dole and insertion of articles critical of Secretary Freeman and the farm program. pp. A4472, A4476, A4480
34. FARM SAFETY. Rep. Mackay inserted an editorial calling attention to the recently celebrated National Farm Safety Week, and that the area of farm safety needs improvement. pp. A4485-6
35. MEXICAN FARM IMPORTS. Rep. Talcott inserted a table of figures showing the increase in imports of agricultural products from Mexico in the last ten years which he stated adversely affects the general standard of living in the U. S. p. A4489
36. MILK PRODUCTION. Rep. Robison inserted a letter to Secretary Freeman from the president of the N. Y. State Farm Bureau opposing direct government payments to milk producers. p. A4499

BILLS INTRODUCED

37. WATER AND AIR POLLUTION. H. R. 17227 by Rep. Boland, to amend the Internal Revenue Code of 1954 to encourage the abatement of water and air pollution by permitting the amortization for income tax purposes of the cost of abatement works over a period of 36 months; to Ways and Means Committee.
H. R. 17253 by Rep. McClory, to amend the Internal Revenue Code of 1954 to allow an incentive tax credit for a part of the cost of constructing or otherwise providing facilities for the control of water or air pollution, and to permit the amortization of such cost within a period of from 1 to 5 years; to Ways and Means Committee.
38. DIET FOODS. H. C. Res. 986 by Rep. Roybal and H. C. Res. 987 by Rep. Kelly, expressing the sense of the Congress with respect to certain proposed regulations of the Food and Drug Administration relating to the labeling and content of diet foods and diet supplements; to Interstate and Foreign Commerce Committee.
39. FOREST LANDS. H. R. 17216 by Rep. Gubser and H. R. 17217 by Rep. Miller, to establish certain policies with respect to certain use permits for national forest lands; to Agriculture Committee.
40. RECLAMATION. H. R. 17225 by Rep. Aspinall, to amend the Small Reclamation Projects Act of 1956, as amended; to Interior and Insular Affairs Committee.
41. PERSONNEL. H. R. 17231 by Rep. Halpern, to provide for improved employee-management relations in the Federal service; to Post Office and Civil Service Committee.

Justice Stewart strongly implies, and others have explicitly stated, a "religion of secularism", an official position favoring the non-believer over the believer, is blessed with government endorsement, then we have entered indeed into a game of Russian roulette with our reverent practices and tradition. There is simply no saying which must next take the fatal judicial shot. The greater tragedy, though, is that so-called "religious leaders" have blinded themselves to the danger and have gone chasing after pleasant dicta while the deed of the decision penetrates through to the most ordinary American who joins us in denouncing it.

We are asked also—but doesn't religion belong in the family and home and church, not in the school? The answer to this is so simple that those who keep asking it must now be suspect. Religion belongs, of course, in family, home and altar place; but it belongs also in the class-room where the bulk of America's young people approach the arts and sciences of life for the first time. Religion is not strengthened in the heart and head of a youngster by wiping it off his lips. There is no conceivable connection as between a public class-room barren of reverence and a resurgence of religion in other aspects of our life together. Besides, as we have indicated above, that brotherhood of prayer which for so long in so many places distinguished our people, is an important experience in pluralism which cannot be duplicated by a God concerned at the hearth and sectarian altar.

A number of supposed substitutions for the moment of prayer have been suggested. We talk to them here, briefly. Let it be clear from the beginning that, should the incredible happen and the will of the nation fall to survive here on the Hill in the matter of a prayer amendment, we shall require to gather the crusts which may for a time remain behind for reverent parents to feed their public school children on. Our attitude to the supposed substitutions, then is this. First, none is really adequate. Second, none, even the most perfect, will in any way eradicate the tragic precedent of the two "prayer" decisions. Third, even though some emasculated type of reverence may for a time survive, we are convinced that each meaningful experience of religion in public schools stands now under a shadow and must, if the Court is true to itself, be serially banned. One suggestion as replacement for school prayer is a silent moment of meditation. A quiet God is better than no God, that is true. But a quiet God removes that experience in pluralism which a spoken God encourages. Besides, meditation is a difficult thing even for adults. To suppose that grade school youngsters can accomplish it properly is at best illusive. Interestingly enough, the same session of the Massachusetts General Court (legislature) which permitted silent meditation petitioned the Congress for a prayer amendment, thus recognizing that its earlier action was purely a holding operation and not definitive in the case. Another suggested replacement is comparative religion class. We wonder if this can be really achieved. It is not difficult to foresee the need for Solomonian teachers to relate one religion to another, nor the rapidity with which enemies of our children's God will rise to challenge such a class in courts whose record is clear. A third suggestion is religion as part of art and history. And religion belongs in art and history, but what a tragedy it would be if God could come into a public school only as a foot-note in art and history classes! Still another suggestion is for a kind of moral assembly in which God might just possibly squeeze in between quotations from Ben Franklin, Einstein, Thoreau and others. But is this enough? Why must the reverent millions of American parents settle for this intermittent God? No, and the record is evident for all to see, no

effective substitute has yet been proposed and widely practiced. Such cases as do exist are so very rare as to attract national attention. And, again, no matter how valid the substitute, it would do nothing to repeal the tragic precedents now in place and the more valid it was the more chance there would be of its judicial denial.

Perhaps one of the most curious arguments, used in at least one major church correspondence of my knowledge to forestall action in support of the Peoples' Amendment for Public Prayer, suggests that because the amendment does not solve all instant problems in Church-State relationships it is inadequate, even dangerous. But where or when in the public life of any modern nation has one single legislative bill satisfied totally all the need in any major subject area? Must we refrain from solving some problems because we simply cannot solve all problems? In any case, here as elsewhere, a savings clause, can be affixed to the prayer amendment to prevent any conceivable overlap from it on existing practices. The point is, though, again here as before—where were those who now object to the Dirksen proposal for reasons of language during all the long months when men of integrity worked to find the best possible wording for a prayer amendment?

It has, often, been said that so-called "legislated prayer" is no good, that in fact it demeans religion. And this would, of course, be true were government to decree a specific religion and inflict sanction on those who refuse to follow an official liturgy. But is this at all the case with free, non-denominational prayer in a public classroom? The answer would be obvious if, once more, responsible men were not answering otherwise. Government, in our belief, exists to do for men collectively what they wish done and cannot accomplish even by pooling their single capacities. The principle of subsidiarity suggests that there are times when a larger unit of society must accomplish what a smaller unit cannot accomplish, but which the citizens of that society deem necessary for their communal existence. Quite naturally, then, public school parents turn to public school boards and public school superintendents to assure reverence in the class-room. Quite naturally, while in no way imposing or dictating, those boards and superintendents have taken perfectly normal action to accommodate the will of their constituents. This is by no means legislated prayer. Far from demeaning religion, this is a process entirely consonant with our democratic traditions and with the best wisdom over time of this reverent people. Said Vatican II in its "Decree on Education" (#7): "The Church gives high praise to those civil authorities and civil societies that show regard for the pluralistic character of modern society and take into account the right of religious liberty, by helping families in such a way that in all schools the education of their children can be carried out according to the moral and religious convictions of each family."

Gentlemen, clearly the moral and religious convictions of the great majority of the nation's families include the right to free, non-denominational prayer in the public class-room. When government moves to recognize these convictions, it does a proper and right thing.

The Dirksen amendment, then, goes to the heart of the two principal purposes at stake here. It restores free, non-denominational prayer to the public school. It blocks any further erosion of public reverence. It does so, we believe, with adequate language, though, to satisfy the best need of the situation, we would accept the addition of a wise savings clause much as we did two years ago in our testimony in the House on the proposed Becker prayer amendment. The Dirksen amendment, let it be crystal clear, is

restorative, clarifying of the First Amendment. The letter of the law, as the Court now spells it out, has gotten dangerously out of kilter with the spirit. We believe it is also out of kilter with the original letter. Far from attacking or rolling back the Bill of Rights, this Peoples amendment for Public Prayer will lift it back to its first common sense. It is not we who call for amendment who weaken the Constitution. It is those who, in a false reading of that Constitution, now oppose the united will of millions of Americans who demand that the Constitution as they have always understood it be preserved once and for all.

Gentlemen, it would seem that the task before you is now clear. The issue has been canvassed. The will of the nation has not changed. The generals without armies have not been able to convince even their own congregants. Your job, in all respects, is not to decide the continuing debate. Your job is not to return prayer and Bible reading to the public classroom; although I am sure I speak for the massive majority of Americans when I applaud these Senators and those Representatives who here, and earlier, have testified to the value of such prayer. Your job is to enoble a popular decision. Elected by the people and responsive to their conscience, your job is to put this question clearly and quickly to them for an ultimate judgment. If those who have come here dragging up the old red herrings of an attack on the Bill of Rights and minority rights are as confident of their logic as they seemed to be before you, why let them carry their case to the people, as we have done?

Gentlemen, once you complete your task, in fifty State capitals a splendid debate begins. Once again everywhere the nation must reflect on the role of God in its public life. We have no doubt whatsoever what the decision will be. In fifty States, the American people—while some of their so-called theologians quibble over whether God is dead and the city is secular, while some of their so-called religious leaders oppose—will re-affirm in one great voice that God lives, that the city is not secular, that religion must survive proudly central in our national heritage. "Religion," said the Roman Catholic hierarchy of these United States a few years ago, "is our chief national asset." Give them the chance, and the American people will repeat those words. Give them the chance and they will write again, as Boston wrote once in its proud motto—"Sicut patribus, sit Deus nobis." As God was with our fathers, so let Him be with us!

APPENDIX

One of the truly great books in prayer amendment literature is that authored by Rev. Joseph Costanzo, S.J., Professor of Historical Jurisprudence in the Fordham University Graduate School, New York City, and published as *This Nation Under God* by Herder and Herder, 1964. So that the Committee may have available to it some of the strong wisdom of these pages, we include the following excerpts as part of our testimony:

a. "The more the context of the New York prayer (struck down in the first prayer decision) and the circumstances attending its option recitation are examined, the more can be discerned the vast possibilities it offered for the increase of friendly community life. First, the children and their approving parents of different faiths and church affiliations came together in a prayer based on the common bonds of the religious beliefs. Their religious sectarianism was in no way experienced as a barrier to the brotherhood of all men under the Fatherhood of God. . . . Secondly, it provided an opportune and excellent educational training and habituation to the exercise of individual choice in the midst of others according to the vaunted American boast of individualist and free self-expression. Religious differences are a very broad fact even for the most enlightened adults.

and social adjustment in this matter is essential to good community relations. Should not the youngsters mature gradually in this delicate experience with civility toward one another without resentment and without inhibition? The circumstances for the corporate prayer provided an early schooling for both the dissidents and the consentients to advance in mutual reverence for one another's religious choices. Thirdly, the dissenter and the minority must surely be shielded from majoritarian imposition. So too must the majority be protected from the unilateral dictation of the absolute dissenter. It is a strange pathology that when people in increasing numbers freely choose to act agreeably in unison there is less cause for public gratification than in the uncompromising protestations of the dissenter. . . . No one can deny that public law is burdened with an almost insurmountable task when it is confronted with the problems of religious pluralism. The voluntary nondenominational prayer was possibly one of the best and, at that, a minimal resolution of this thorny moral-legal problem," pages 132, 133.

b. "American believers are losing by default. They have taken their spiritual heritage for granted. They have allowed a creeping gradualism of secularism, under one specious pretext or another, to take over their public schools. A vociferous and highly organized pressure group is exerting its own form of indirect coercive pressure upon the American community. Determined to deflect American national traditions and heritage from their authentic historic course, this group is cutting a divisive swath across the nation, advertising for clients to challenge in court what is obnoxious to them. Whoever works for the destruction of the positive doctrine of accommodation and mutual adjustment must shoulder the blame for uprooting the bonds of concord and friendship and for forcibly injecting bitter antagonisms into the nation's pluralistic society (emphasis supplied)," pages 131, 132.

c. "These religious truths, fundamental because they are formally part of the Jewish, Protestant and Catholic faith, far from dividing have drawn our students together in silent prayer in public school exercises and in the salute of allegiance 'under God' to the flag. Oddly enough and contrary to their protestations, it is the separatists, neutralists and secularists who are truly divisive for they have raised issues that in the past have not troubled the students in public school exercises; and they have pointed loudly to the differences between the various faiths which students in their generosity keep to themselves. It is their bond which is vague and threateningly dangerous monism, a mechanical unitarism in a spiritual and intellectual vacuum. . . . There is nothing divisive in the idea of brotherhood of men by divine creation, of fraternity by divine commandment of charity and justice binding in conscience. Far from being vague, these are definite religious truths which have bound our nation in peace and in war and have aroused our consciences against injustices in our midst as well as in other countries. A purely secular education is false to the nature of man and to God; false to American history; false to that philosophy of life and education which refuses to departmentalize what is inseparably one—the continuity of the spiritual life and moral development of the whole person, whether at home, at church or synagogue, or at school." Page 104.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

FAIR LABOR STANDARDS AMENDMENTS OF 1966

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with an amendment:

Strike out all after the enacting clause and insert:

"That this Act may be cited as the 'Fair Labor Standards Amendments of 1966'.

"TITLE I—DEFINITIONS

"Tips

"SEC. 101. (a) Section 3(m) of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new sentence: 'In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 per centum of the applicable minimum wage rate, except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount.'

"(b) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"(t) 'Tipped employee' means any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips.'

"Definition of enterprise

"SEC. 102. (a) Section 3(r) of such Act is amended by adding at the end thereof the following: 'For purposes of this subsection, the activities performed by any person or persons—

"(1) in connection with the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for physically or mentally handicapped or gifted children, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit), or

"(2) in connection with the operation of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), shall be deemed to be activities performed for a business purpose.'

"(b) Section 3(d) of such Act is amended by inserting after 'of a State' the following: '(except with respect to employees of a State, or a political subdivision thereof, employed (1) in a hospital, institution, or school referred to in the last sentence of subsection

(r) of this section, or (2) in the operation of a railway or carrier referred to in such sentence)'.
 "(c) Section 3(s) of such Act is amended to read as follows:

"(s) 'Enterprise engaged in commerce or in the production of goods for commerce' means an enterprise which has employees engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person, and which—

"(1) during the period February 1, 1967, through January 31, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than \$500,000 (exclusive of excise taxes at the retail level which are separately stated) or is a gasoline service establishment whose annual gross volume of sales is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated), and beginning February 1, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated);

"(2) is engaged in laundering, cleaning, or repairing clothing or fabrics;

"(3) is engaged in the business of construction or reconstruction, or both; or

"(4) is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for physically or mentally handicapped or gifted children, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit).

Any establishment which has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection. In any case in which a person other than the owner of an apartment building is engaged by such owner to perform management services in connection with the operation of such building, any individual employed at, and resident in, such building as a manager, caretaker, or janitor, or in a similar capacity, shall be considered, for the purposes of this subsection, to be the employee of the owner of such building.'

"Agricultural employees

"SEC. 103. (a) Section 3(e) of such Act is amended to read as follows:

"(e) 'Employee' includes any individual employed by an employer, except that such term shall not, for the purposes of section 3(u), include—

"(1) any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family,

"(2) any individual who is employed by an employer engaged in agriculture if such individual (A) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (B) commutes daily from his permanent residence to the farm on which he is so employed, and (C) has been employed in agriculture less than thirteen weeks during the preceding calendar year, or

"(3) any individual who is employed by an employer engaged in agriculture if such individual is principally engaged in the range production of livestock.'

"(b) Section 3 of such Act is further amended by adding after subsection (t) (added by section 101(b) of this Act) the following new subsection:

"(u) 'Man-day' means any day during any portion of which an employee performs any agricultural labor."

"TITLE II—REVISION OF EXEMPTIONS

"Hotel, restaurant, and recreational establishments; hospitals and related institutions

"SEC. 201. (a) Section 13(a)(2) of such Act is amended by striking out everything preceding 'A "retail or service establishment"' and inserting in lieu thereof the following:

"(2) any employee employed by any retail or service establishment (except an establishment or employee engaged in laundering, cleaning, or repairing clothing or fabrics or an establishment engaged in the operation of a hospital, institution, or school described in section 3(s)(4)), if more than 50 per centum of such establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, and such establishment is not an enterprise described in section 3(s) or such establishment has an annual dollar volume of sales which is less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated)."

"(b)(1) Section 13(b) of such Act is amended by inserting after paragraph (17), added by section 206(a)(2) of the Act, the following new paragraph:

"(18) any employee employed by an establishment which is a hotel, motel, or restaurant; or is an institution (other than hospitals) primarily engaged in the care of the sick, the aged, the mentally ill, or defective who reside on the premises of such an institution; or"

"(2) Section 13(a) of such Act is amended by inserting after paragraph (2) the following new paragraph in lieu of the paragraph repealed by section 202 of this Act:

"(3) any employee employed by an establishment which is an amusement or recreational establishment, if (A) it does not operate for more than seven months in any calendar year, or (B) during the preceding calendar year, its average receipts for any six months of such year were not more than 33 1/3 per centum of its average receipts for the other six months of such year; or."

"Laundry and cleaning establishments

"SEC. 202 Section 13(a)(3) of such Act is repealed.

"Agricultural employees

"SEC. 203 (a) Section 13(a)(6) of such Act is amended to read as follows:

"(6) any employee employed in agriculture (A) if such employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred man-days of agricultural labor, (B) if such employee is the parent, spouse, child, or other member of his employer's immediate family, or (C) if such employee (i) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) commutes daily from his permanent residence to the farm on which he is so employed, and (iii) has been employed in agriculture less than thirteen weeks during the preceding calendar year, or (D) if such employee (other than an employee described in clause (C) of this subsection) (1) is sixteen years of age or under and is employed as a hand harvest laborer, is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment;

(ii) is employed on the same farm as his parent or person standing in the place of his parent; and (iii) is paid at the same piece rate as employees over age sixteen are paid on the same farm; or (E) if such employee is principally engaged in the range production of livestock."

"(b) Section 13(a)(16) of such Act (agricultural employees employed in livestock auctions) is repealed.

"(c) Section 13(b) of such Act is amended—

"(A) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; or", and

"(B) by adding at the end of paragraph (11) the following new paragraphs:

"(12) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

"(13) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (A) is primarily employed during his workweek in agriculture by such farmer, and (B) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a)(1); or."

"(d) Section 13(c) of such Act is amended to read as follows:

"(c)(1) The provisions of section 12 relating to child labor shall not apply with respect to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed.

"(2) No employee below the age of sixteen may be employed in agriculture in an occupation that the Secretary of Labor finds and declares to be particularly hazardous for the employment of children below age sixteen, except where such employee is employed by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person.

"(3) The provisions of section 12 relating to child labor shall not apply to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions."

"Agricultural processing employees

"SEC. 204. (a) Sections 13(a)(10) (employees engaged in handling and processing of agricultural, horticultural, and dairy products); 13(a)(17) (country elevator employees); 13(a)(18) (cotton ginning employees); and 13(a)(22) (fruit and vegetable transportation employees) of such Act are repealed.

"(b) Section 13(b) of such Act is amended by adding after paragraph (13) (added by section 203(c) of this Act) the following new paragraphs:

"(14) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed in the establishment in such operations; or

"(15) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities; or

"(16) any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a

place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables; or."

"(c) Subsection (c) of section 7 of such Act is amended to read as follows:

"(c) For a period or periods of not more than ten workweeks in the aggregate in any calendar year, or fourteen workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (d) of this section any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection if such employee (1) is employed by such employer in an industry found by the Secretary to be of a seasonal nature, and (2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment by such employer in excess of fifty-two hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

"(d) For a period or periods of not more than ten workweeks in the aggregate in any calendar year, or fourteen workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (c) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection, if such employee—

"(1) is employed by such employer in an enterprise which is in an industry found by the Secretary—

"(A) to be characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of agricultural or horticultural commodities from farms if such industry is engaged in the handling, packing, preparing, storing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, or

"(B) to be of a seasonal nature and engaged in the handling, packing, storing, preparing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, and

"(2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed."

"(d)(1) Subsections (d), (e), (f), (g), and (h) of section 7 of such Act are redesignated as subsections (e), (f), (g), (h), and (i), respectively.

"(2) Subsections (g) and (h) of such section 7 (as so redesignated by paragraph (1) of this subsection) are each amended by striking out 'subsection (d)' and inserting in lieu thereof 'subsection (e)'."

"Small newspapers

"SEC. 205. Section 13(a)(8) of such Act is amended by striking out 'where printed and published' and inserting in lieu thereof 'where published'."

"Transportation companies

"SEC. 206. (a) Section 13(a)(9) of such Act is repealed.

"(b)(1) Section 13(a)(12) of such Act is repealed.

"(2) Section 13(b) of such Act is amended by adding after paragraph (16) added by section 204(b) of this Act) the following new paragraph:

"(17) any driver employed by an employer engaged in the business of operating taxicabs; or".

"(c) Section 13(b)(7) of such Act is amended to read as follows:

"(7) any driver, operator, or conductor employed by an employer whose annual gross volume of sales made or business done is less than \$1,000,000 (exclusive of excise taxes at the retail level which are separately stated), engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency; or"

"Motion picture theater employees"

"SEC. 207. Section 13(a) of such Act is amended by inserting after paragraph (8) the following new paragraph in lieu of the paragraph repealed by section 206(a) of this Act:

"(9) any employee employed by an establishment which is a motion picture theater; or".

"Logging crews"

"SEC. 208. Section 13(a)(15) of such Act is amended to read as follows:

"(15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight during the year beginning February 1, 1967, and if the number of such employees does not exceed six beginning February 1, 1968, and thereafter."

"Automobile, aircraft, and farm implement sales establishments"

"SEC. 209. (a) Section 13(a)(19) of such Act is repealed.

"(b) Section 13(b) of such Act is amended by inserting after paragraph (9) the following new paragraph in lieu of the paragraph repealed by section 212 of this Act:

"(10) any salesman (other than partman) or mechanic primarily engaged in selling or servicing automobiles, trailers, trucks, farm implements or aircraft if employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles to ultimate purchasers; or"

"Food service employees"

"SEC. 210. (a) Section 13(a)(20) of such Act is repealed.

"(b) Section 13(b) of such Act is amended by adding after paragraph (18) (added by section 201(b)(1) of this Act) the following new paragraph:

"(19) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs."

"Gasoline service stations"

"SEC. 211. Section 13(b)(8) of such Act is repealed.

"Petroleum distribution employees"

"SEC. 212. (a) Section 13(b)(10) of such Act is repealed.

"(b) Section 7(b)(3) of such Act is amended to read as follows:

"(3) by an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if—

"(A) the annual gross volume of sales of such enterprise is less than \$1,000,000 exclusive of excise taxes;

"(B) more than 75 per centum of such enterprise's annual dollar volume of sales is

made within the State in which such enterprise is located, and

"(C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale, and such employee receives compensation for employment in excess of forty hours in any workweek at a rate not less than one and one-half times the minimum wage rate applicable to him under section 6."

"Eniwetok and Kwajalein Atolls and Johnston Island"

"SEC. 213. Section 13(f) of such Act is amended by striking out 'and the Canal Zone' and inserting in lieu thereof 'Eniwetok Atoll; Kwajalein Atoll; Johnston Island; and the Canal Zone'.

"Technical and conforming amendments"

"SEC. 214. (a) Section 3(n) of such Act is amended by striking out 'except as used in subsection (s)(1)'.
 "(b) Section 13(a) of such Act is amended—

"(1) by redesignating paragraphs (11), (13), (14), (15), and (21) as paragraphs (10), (11), (12), (13), and (14), respectively, and

"(2) by striking out 'or' at the end of paragraph (14) (as so redesignated in this subsection) and inserting in lieu thereof a period.

"(c) Paragraph (7) of section 13(a) of such Act is amended by striking out 'or order' and inserting in lieu thereof 'order, or certificate'.

"TITLE III—INCREASE IN MINIMUM WAGE"

"Presently covered employees"

"SEC. 301. (a) Section 6(a) of such Act is amended by amending that portion of the section preceding paragraph (2) to read as follows:

"(a) Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates:

"(1) not less than \$1.40 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966 and not less than \$1.60 an hour thereafter, except as otherwise provided in this section;".

"(b) Such section is amended by striking out the period at the end of paragraph (3) and inserting a semicolon, and by adding the following new paragraph:

"(4) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement); or".

"Agricultural employees"

"SEC. 302. Section 6(a) of such Act is amended by adding after paragraph (4) (added by section 301(b) of this Act) the following new paragraph:

"(5) if such employee is employed in agriculture, not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during the second year from such date, and not less than \$1.30 an hour thereafter: *Provided*, That in the case of workers employed in agriculture in hand harvest work by an employer on a piece-rate basis, if during any workweek the average of the aggregated earnings of such

workers exceeds the minimum hourly wage as prescribed above, the employer shall be considered to be in compliance with this section: *Provided further*, That no employee employed on such piece-rate basis is paid less than 75 per centum of the minimum wage applicable under this paragraph."

"Newly covered employees"

"SEC. 303. Section 6(b) of such Act is amended to read as follows:

"(b) Every employer shall pay to each of his employees (other than an employee to whom subsection (a)(5) applies) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this section by the amendments made to this Act by the Fair Labor Standards Amendments of 1966, wages at the following rates:

"(1) not less than \$1 an hour during the first year from the effective date of such amendments,

"(2) not less than \$1.15 an hour during the second year from such date,

"(3) not less than \$1.30 an hour during the third year from such date,

"(4) not less than \$1.45 an hour during the fourth year from such date, and

"(5) not less than \$1.60 an hour thereafter."

"Employees in Puerto Rico and the Virgin Islands"

"SEC. 304. Section 6(c) of such Act is amended to read as follows:

"(c)(1) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5.

"(2) In the case of any such employee who is covered by such a wage order and to whom the rate or rates prescribed by subsection (a) would otherwise apply, the following rates shall apply:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, increased by 12 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1966 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) Beginning one year after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 16 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

"(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect

to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1966 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

"(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

"(3) In the case of any such employee to whom subsection (a)(5) or subsection (b) would otherwise apply, the Secretary shall within sixty days after the effective date of the Fair Labor Standards Amendments of 1966 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 8, but not in excess of the applicable rate provided by subsection (a) (5) or subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (a)(5) or subsection (b), as the case may be. The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1966.

"(4) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage

order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee."

"Contract services to Federal Government"

"SEC. 305. Section 6 of such Act is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding the provisions of section 13 of this Act (except subsections (a) (1) and (f) thereof), every employer providing services under a contract subject to section 2(b)(1) of the Service Contract Act of 1965 (79 Stat. 1034) or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965 (Public Law 89-286) or to whom subsection (a)(1) of this section is not applicable, wages at rates not less than the rates provided for in subsection (b) of this section."

"Federal employees"

"SEC. 306. Section 18 of such Act is amended by inserting '(a)' immediately after 'Sec. 18.' and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this Act (other than section 13(f)) or any other law, any employee—

"(1) described in paragraph (7) of section 202 of the Classification Act of 1949 (5 U.S.C. 1082(7)) whose compensation is required to be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates, and any Federal employee in the Canal Zone engaged in employment of the kind described in such paragraph (7), or

"(2) described in section 7474 of title 10, United States Code, whose rates of wages are established to conform, as nearly as is consistent with the public interest, with those of private establishments in the immediate vicinity, or

"(3) employed in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces,

shall have his basic compensation fixed or adjusted at a wage rate which is not less than the appropriate wage rate provided for in section 6(a)(1) of this Act (except that the wage rate provided for in section 6(b) shall apply to any employee who performed services during the workweek in a work place within the Canal Zone), and shall have his overtime compensation set at an hourly rate not less than the overtime rate provided for in section 7(a) of this Act."

"TITLE IV—APPLICATION OF MAXIMUM HOURS PROVISIONS"

"Presently and newly covered employees"

"SEC. 401. Section 7(a) of such Act is amended to read as follows:

"(a)(1) Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

"(2) No employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this subsection by the amendments made to this Act by the Fair Labor Standards Amendments of 1966—

"(A) for a workweek longer than forty-

four hours during the first year from the effective date of the Fair Labor Standards Amendments of 1966,

"(B) for a workweek longer than forty-two hours during the second year from such date, or

"(C) for a workweek longer than forty hours after the expiration of the second year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."

"Commission salesman"

"SEC. 402. Subsection (1) of section 7 of such Act (as so redesignated by section 204 (d) of this Act) is amended by adding at the end thereof the following new sentence: 'In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.'

"SEC. 403. Section 7 of such Act is amended to include the following new subsection:

"(j) No employer engaged in the operation of a hospital shall be deemed to have violated subsection (a) if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of fourteen consecutive workdays is accepted in lieu of the workweek of seven consecutive workdays for purposes of overtime computation and if, for his employment in excess of eight hours in any workday and in excess of eighty hours in such fourteen-day period, the employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed."

"TITLE V—HANDICAPPED WORKERS"

"SEC. 501. Section 14 of the Fair Labor Standards Act of 1938 is amended by inserting '(a)' after 'Sec. 14.' and by amending clause (2) of subsection (a) to read as follows: '(2) subject to the special provisions in subsections "(b)" and "(c)", the employment of individuals whose earning capacity is impaired by age, or physical or mental deficiency or injury, under special certificates issued by the Secretary, at such wages lower than the minimum wage applicable under section 6 and for such period as shall be fixed in such certificates.'

"SEC. 502. Section 14 of the Fair Labor Standards Act of 1938 is further amended by adding the following new subsections at the end of subsection (a):

"(b) Handicapped workers employed in sheltered workshops shall be paid wages commensurate with those paid nonhandicapped workers in industry in the vicinity for essentially the same type, quantity, and quality of work, but not less than the wages specified in the special certificates issued under clause (2) of subsection (a), subject to the provisions of this subsection and subsection (c): *Provided*, That effective January 1, 1967, no certificate shall be issued under clause (2) of subsection (a) which shall permit the payment to handicapped workers employed in sheltered workshops of wages at a rate lower than 50 per centum of the minimum wage applicable under section 6 of this Act; beginning January 1, 1968, such wages shall not be less than 75 per centum of such minimum wage; and beginning January 1, 1969, such wages shall not be less than the minimum wage in effect under section 6 of this Act; but in no instance shall handicapped workers employed in sheltered workshops receiving wages in excess of the prescribed minimums be reduced to the prescribed minimums.

"The Secretary, pursuant to regulations which he shall prescribe, may issue special

certificates for less than the minimum wage requirements under this subsection in proportion to the worker's productivity:

"(1) In the case of handicapped workers engaged in training or evaluation programs, where their work is incidental to such programs, and such regulations shall specify time limitations and other criteria which shall be conditions for the issuance of such special certificates; and

"(2) Under exceptional circumstances, and such regulations shall specify and describe the term "exceptional circumstances" which shall include multihandicapped individuals and those individuals so severely impaired that they are unable to engage in competitive employment.

"The State agency administering or supervising the administration of vocational rehabilitation services shall certify to the Secretary those handicapped individuals for whom special certificates may be issued under (1) and (2) above, and said certifications shall be reviewed annually by the Secretary.

"(c) The Secretary shall establish a new classification which shall be called work activity centers, and which shall be distinguished from the sheltered workshops covered by subsections (a) and (b) of this section in that said centers shall be planned and designed exclusively for handicapped workers whose physical or mental impairment is so severe as to make their productive capacity inconsequential.

"The Secretary is directed to conduct a study by January 1, 1968, to establish a formula for determining equitable compensation for handicapped workers employed in work activity centers.

"Only handicapped workers whose productive capacity has been evaluated and certified to the Secretary as inconsequential by the State agency administering or supervising the administration of vocational rehabilitation services shall be employed in a work activity center, and such certifications shall be reviewed annually by the Secretary.

"Pending the development of such formula, the Secretary is directed to approve special certificates for less than the minimums applicable under section 6, or subsections (a) and (b) of this section."

"SEC. 503. There are hereby authorized to be appropriated such sums as may be necessary for the administration of the provisions of this Act by the Secretary of Labor and by the Secretary of Health, Education, and Welfare.

"SEC. 504. The Secretary of Labor is hereby instructed to commence immediately a complete study of wage payments to handicapped clients of sheltered workshops and of the feasibility of raising existing wage standards in such workshops. The Secretary is further instructed to report to the Congress by July 1, 1967, the findings of such study with appropriate recommendations.

"TITLE VI—STATUTE OF LIMITATIONS; EFFECTIVE DATE; AND STUDY

Statute of limitations

"SEC. 601. (a) Section 16(c) of such Act is amended by striking out 'two-year statute' and by inserting in lieu thereof 'statutes'.

"(b) Section 6(a) of the Portal-to-Portal Act of 1947 (Public Law 49, Eightieth Congress) is amended by inserting before the semicolon at the end thereof the following: ', except that a cause of action arising out of a willful violation may be commenced within three years after the cause of action accrued'.

Effective date

"SEC. 602. Except as otherwise provided in this Act, the amendments made by this Act shall take effect on February 1, 1967. On and after the date of the enactment of this Act the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

Study of excessive overtime

"SEC. 603. The Secretary of Labor is hereby instructed to commence immediately a complete study of present practices dealing with overtime payments for work in excess of forty hours per week and the extent to which such overtime work impedes the creation of new job opportunities in American industry. The Secretary is further instructed to report to the Congress by July 1, 1967, the findings of such survey with appropriate recommendations.

TITLE VII—INCREASE IN WITNESS FEES

"SEC. 701. The first sentence of section 1821, title 28, United States Code, is amended to read as follows: 'A witness attending in any court of the United States, or before a United States commissioner, or before any person authorized to take his deposition pursuant to any rule or order of a court of the United States, at any time shall receive for each hour or fraction of an hour of such attendance, and for each hour or fraction of an hour necessarily occupied in going to and returning from the same, compensation at a rate equal to the minimum hourly wage rate prescribed at such time by section 6 (a) (1) of the Fair Labor Standards Act of 1938, as amended, but not less than \$4 per day for each day of such attendance or travel, and shall receive 8 cents per mile for going from and returning to his place of residence.'

"SEC. 702. The amendment made by this title shall take effect on the first day of the third month beginning after the date of enactment of this Act."

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. YARBOROUGH. Mr. President—

Mr. MANSFIELD. Mr. President, will the Senator yield without losing his right to the floor?

Mr. YARBOROUGH. Mr. President, I yield to the majority leader.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORE in the chair). Without objection, it is so ordered.

AUTHORIZATION FOR CERTAIN STAFF MEMBERS OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE TO HAVE THE PRIVILEGE OF THE FLOOR

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that additional staff members of the Committee on Labor and Public Welfare be permitted on the floor during the consideration of the pending bill, H.R. 13712.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YARBOROUGH. Mr. President, we turn at this time to a consideration of H.R. 13712, a bill to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees and to raise the minimum wage, and for other purposes.

Mr. President, at the present time 29.6 million workers in America, out of the total of 60 million in our industrial work force, are covered by Federal minimum wage laws. This bill would raise the minimum standards of those 29.6 million

covered by the present minimum wage laws, and it would bring under the minimum wage laws for the first time—and set a floor below which their wages could not go—7.2 million workers.

This is landmark legislation, not merely in labor, but also in the economy of America. The legislation we are considering today is perhaps the most important domestic legislation to come before this Congress. It raises some fundamental questions concerning the responsibility of a democratic government to its people—all its people and not only those who are influential enough or articulate enough to make their voices heard in the Halls of Congress.

This Congress has sought to improve the quality of our educational system, to stimulate economic growth, to guarantee all citizens their full constitutional rights. These are sound objectives; their attainment are goals worthy of a great nation.

But, of what value are constitutional rights to those who lack basic economic rights?

Of what use are improved schools to those whose economic deprivation destroys their self-respect and motivation to improve their condition?

What good is general prosperity to those who are not permitted to share in its benefits?

As President Roosevelt stated in 1937:

Our Nation, so richly endowed with natural resources and with a capable and industrious population should be able to devise ways and means of insuring to all our able-bodied working men and women a fair day's pay for a fair day's work.

The proposed legislation would provide a minimum wage for newly covered nonfarm workers of \$1 an hour beginning February 1, 1967. This minimum rate will be raised in four annual increases to \$1.60 an hour beginning February 1, 1971.

For workers now covered by the act, the minimum wage would be raised from \$1.25 to \$1.40 per hour, beginning February 1, 1967, and, under the amendment adopted in the Committee on Labor and Public Welfare, to \$1.60 an hour 1 year later, February 1, 1968. That, Mr. President, would be for the 29.6 million now covered by minimum wages.

Farmworkers, unless exempted, would be provided a minimum wage of \$1 an hour, to be raised in two annual increases to \$1.30 an hour beginning February 1, 1969.

The increase in the minimum wage is essential to the maintenance of the minimum standard of living necessary for the health and general well-being of the Nation's workers. An individual who works 40 hours per week at the present statutory minimum earns \$2,600 in 1 year.

That in itself is below the minimum income of \$3,000 judged to be poverty-level income in this country today. The present \$1.25 or \$2,600 a year is totally out of line with the realities of today.

Would any Member of this Chamber seriously contend that \$2,600 for a year of work represents a fair labor standard?

There are those who will say that an increase in the statutory minimum or an extension of coverage to new classes of employees is inflationary; that it will result in layoffs; or that we simply just cannot afford it. These same persons throw up their arms in horror because the \$1.60 minimum rate for presently covered workers will take place in 1968 instead of some later date. A living wage, they claim, is just too much for some employers to pay.

I point out that the minimum wage has to go to \$1.60 in order to get the workers above a yearly income of \$3,000.

These same, stale arguments are raised in one form or another every time fair labor standards are considered. This Nation has survived and indeed prospered as a result of improvements in basic living standards in the past. The minimum wage laws had much to do with that. I am inclined to believe that our ability to do so now has not been impaired by over 5 years of uninterrupted economic growth. The truth is, of course, that this legislation can and will improve the income, level of living, morale, and efficiency of many of our lowest paid workers and encourages more effective use of manpower in our economy. When it comes to standards of elementary decency for large numbers of Americans, this Nation can ill afford to plead poverty.

If this Nation contends that it cannot pay a level of wages high enough to bring a family above the poverty level, then the Nation pleads poverty in that case. So this bill is an answer to the plea that the Nation is poverty stricken and cannot pay the minimum wage to bring workers up to a wage which is above the poverty bracket.

The President's Council of Economic Advisers shares my view—and the view of the committee—that the economy can readily adjust to the proposed minimum rate increases. In a letter of May 19, 1966, to the House leadership, the Council made the following statement concerning the bill and the effect it will have on the economy:

The minimum wage increase proposed by H.R. 13712 for those already covered by the FLSA reflects appropriate concern for the standards of noninflationary behavior of wages.

Mr. President, I wish to stress those words: This is noninflationary.

As you know, the Council's wage guidepost provides for a specific exception in those cases "where wages are particularly low—that is, near the bottom of the economy's wage scales." The wages of those actually affected by minimum wage protection obviously fall into this category of exceptions to the guide post, and therefore should move up at a more rapid pace than the economy's productivity trend. Only then can our least advantaged workers move closer to the average standards of prosperity enjoyed by the Nation's labor force. When one considers the time span since the last increase in the minimum wage in 1963 and the timing of the increases scheduled by H.R. 13712, the rate of increase appears entirely reasonable for this particular type of exception to the guideposts.

In addition to raising the minimum wage the proposed legislation would extend protections of the Fair Labor Stand-

ards Act to more than 7 million employees not now covered by any law protecting them on minimum wages. Included are workers in retailing, construction workers, laundry and drycleaning, transit, restaurant, and food service workers; employees engaged in agriculture, agricultural processing, and logging; employees of hotels, motels, hospitals, and related institutions. It would also incorporate basic wage policies for Federal wage board employees, certain employees of naval facilities whose wages are established to conform with those of private establishments in the vicinity where they work, and employees of non-appropriated fund instrumentalities. The wages of these Federal employees are now dependent in part on administrative discretion.

Many of the employees who would be covered by the new legislation are among the most poorly paid and economically deprived in our society. In studying this legislation, our committee found that there was a significant correlation between poverty earnings and exclusion from the protective provisions of the act. Among family heads employed in industries generally covered by the act, only 5 to 10 percent had annual incomes under \$3,000 in 1964. The figure is 6 to 13 percent in industries where there is partial coverage. But in industries where there is little or no coverage, the proportions jumped to 29 and 47 percent, respectively.

(At this point Mr. BYRD of Virginia assumed the chair.)

Mr. YARBOROUGH. Mr. President, I have been discussing this matter from the point of view of the individual worker who is now receiving a poverty wage. But, it is also clear that the Nation as a whole loses when the sores of poverty are permitted to fester. We talk about crime, and violence in the streets, and juvenile delinquency, and dope addiction. We spend millions of dollars on police protection and then complain that what we are doing is inadequate. It is proposed that we spend tens of billions of dollars doing something about poverty in the cities. It is inadequate, and it will continue to be inadequate as long as large groups in our society are unable to receive an honest day's pay for an honest day's work.

We have learned that we have in this Nation workers receiving 25, 40, 50, 60, and 65 cents an hour who should be under the minimum wage law of at least \$1 an hour under any society standard.

The legislation which we are considering today is a necessary step in remedying inadequacies of our present approach. I strongly urge favorable consideration of this important bill, the provisions of which I should now like to explain in detail.

1. ENTERPRISE COVERAGE

Before the 1961 amendments to the act, coverage was limited to individual employees who were themselves engaged in commerce or in the production of goods for commerce. The 1961 amendments expanded coverage by adding protection for those employed in an "enterprise engaged in commerce or in the production of goods for commerce."

However, the enterprise coverage was subject to an annual sales test of \$1 million. Separate dollar tests for the construction industry—\$350,000—and gasoline service establishments—\$250,000 were provided.

Section 3(a) of the present bill would reduce the million-dollar test to \$500,000 for 2 years, and then reduce it again to \$250,000 as the test, after 2 years. There would be no dollar tests for enterprises engaged in: first, laundering, cleaning, or repairing clothing or fabrics; second, construction; or, third, the operation of hospitals and related institutions and institutions of higher education.

"Mom and Pop" stores—those establishments in which the only employees are the immediate family of the owner—continue to be excluded, and their sales are not to be used in determining the annual gross sales of any "enterprise."

2. TIPS

Section 3(m), defining the term "wage," is amended by adding to the section a provision that the wages paid by an employer to a "tipped employee" are to include tips. There is a limitation that tips cannot exceed 50 percent of the applicable minimum wage. In other words, an employer cannot rely on tips alone. A "tipped employee" is defined in section 3(t) as any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips.

The amendment establishes certainty in the law where it has been lacking. Perhaps more importantly, it takes cognizance of the expansion of coverage into areas where the employment of tipped employees is common.

As to the mechanics of the provision, the bill permits the employer to make an initial determination of the amount of tips, and thus avoids any interference in normal payroll practices. However, it affords safeguards to the employee by permitting him to show, if he can, to the satisfaction of the Secretary of Labor that the actual amount of tips received by him was less than the amount of tips determined by his employer and having his wage adjusted by the difference.

3. REVISION OF EXEMPTIONS

First. Hotels, motels, restaurants, seasonal amusement and recreational establishments, and hospitals and related institutions: The bill repeals the minimum wage and overtime exemptions now provided in section 13(a)(2)(ii) and (iii) for hotels, motels, restaurants, and hospitals and related institutions, but restores the overtime exemption for hotels, motels, restaurants, and nursing homes in a new section 13(b)(8).

As amended, the exemption in section 13(a)(2) would be limited to any retail or service establishment: First, having more than 50 percent of its annual dollar volume of sales of goods or services being made within the State wherein it is located; and, second, not within an enterprise described in section 3(s), or having an annual dollar volume of sales which is less than \$250,000. The definition of a "retail or service establishment" in section 13(a)(2) remains unchanged. It is defined as an establishment 75 percent of whose annual dollar

volume of sales of goods, services, or both is not for resale and is recognized as retail sales or services in the particular industry.

Expressly carved out from the exemption are establishments or employees engaged in laundering, cleaning, or repairing clothing or fabrics or establishments engaged "in the operation of" hospitals and related institutions and institutions of higher education which are within the new "enterprise" coverage.

The minimum wage and overtime exemption contained in section 13(a) (20) for any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption is repealed. But the overtime exemption is retained in a new section 13(b) (18).

The minimum wage and overtime exemption in section 13(a) (2) (ii) for seasonal amusement and recreational establishments is limited to establishments which do not operate for more than 7 months annually, of which have average receipts for any 6 months of the year which do not exceed one-third of their average receipts for the remaining 6 months of the year.

Second. Laundry and cleaning establishments: The minimum wage and overtime exemption of any employee employed by any establishment engaged in laundering, cleaning, or repairing clothing or fabrics—section 13(a) (3)—is eliminated.

Third. Agricultural workers: The bill covers only agricultural workers on the largest farms—the so-called agribusiness enterprises—which used 500 man-days of agricultural labor in any calendar quarter of the preceding year.

A "man-day" is defined in a new section 3(u) as meaning any day during any portion of which an employee performs any agricultural labor.

Certain employees are to be excluded from both the general man-day count and from the coverage of the act. These employees are not included in determining whether an individual farm exceeds the 500 man-day criteria, and are not covered even though employed by a farm which does meet the criteria. The employees who are so excluded are:

First. The parent, spouse, child, or other member of an agricultural employer's immediate family;

Second. An employee who (a) is employed as a hand harvest laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment, (b) commutes daily from his permanent residence to the farm on which he is so employed, and (c) has been employed in agriculture less than 13 weeks during the preceding calendar year; and

Third. An employee who is "principally engaged in the range production of livestock."

The bill also provides an exemption for the children of migrant workers if such children are (a) 16 years of age or under and are employed as hand harvest laborers, (b) paid on a piece-rate basis

in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment, (c) employed on the same farm as their parents, and (d) paid the same piece rate as employees over age 16 are paid on the same farm.

Although the employment of these children is exempt from the minimum wage requirements, such employment will be included in the 500 man-day count.

The bill removes the present minimum wage exemption in section 13(a) (16) for agricultural employees employed in livestock auction operations.

Exemption from the overtime requirements of the act would be preserved for any employee employed: First, in agriculture, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways for agricultural purposes; and, second, in connection with livestock auction operations—new sections 13(b) (12) and (13), respectively.

Fourth. Agricultural handling and processing: The bill revises the exemptions relating to agricultural handling and processing contained in section 13(a) and section 7 of the act.

The exemptions in section 13(a) for the following employees have been replaced by new overtime exemptions in section 13(b): First, employees employed by country elevators; second, employees employed in the ginning of cotton; and, third, employees engaged in the transportation of fruit and vegetables or the transportation of farmworkers.

The present exemption in section 13(a) (10) of the act provides a complete year-round exemption from the act's minimum wage and overtime provisions for employees in the area of production and engaged in, first, handling, preparing, storing, compressing, pasteurizing, drying, and preparing agricultural or horticultural commodities in their raw or natural state; second, canning agricultural or horticultural commodities for market; or, third, making dairy products.

This minimum wage and overtime exemption is repealed by the bill.

There is presently in section 7(b) (3) a 14-week overtime exemption, limited to 12 hours a day and 56 hours a week, applicable to employees employed in seasonal industries.

The present overtime exemption in section 7(c) of the act may be summarized as follows:

First. There is a year-round unlimited exemption applicable to employees of employers engaged in (a) first processing of milk, et cetera, into dairy products; (b) cotton compressing and ginning; (c) cottonseed processing; or, (d) the processing of certain farm products into sugar.

Second. There is a 14-week unlimited exemption applicable to employees of employers engaged in (a) first processing, et cetera, of perishable or seasonal fresh fruits or vegetables; (b) first processing within area of production of any agricultural commodity during a seasonal operation; or, (c) handling or slaughtering of livestock and poultry.

These two exemptions are replaced by exemptions contained in new sections 7(c) and 7(d). Section 7(c) provides a 14-week overtime exemption for employees employed in a seasonal industry, limited to 10 hours a day and 52 hours a week.

The new section 7(d) provides a 14-week overtime exemption, limited to 10 hours a day and 48 hours a week, for employees in an enterprise which is in an industry found by the Secretary of Labor to be, first, engaged in handling, processing, and so forth, of perishable agricultural or horticultural commodities in their raw or natural state; and, second, seasonal in nature or characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of such commodities from farms.

"Perishable agricultural or horticultural commodities" are those which in their raw or natural state are subject to deterioration or spoilage under ordinary circumstances unless some affirmative action is taken within a short time to preserve them from spoilage or decay.

A "seasonal industry" is one which stops its primary operations during those parts of the year when, as a result of natural conditions, the commodities handled in such industry are not available. On the other hand, an industry characterized by "seasonal peaks" of operation does not stop its primary operations during the year, but, rather, maintains them at a constant level except during certain periods of the year when its operations are greatly expanded to take care of the seasonal influx of the commodities in their raw or natural state.

If an employer qualifies for an exemption under both section 7(c) and 7(d), each exemption is limited to 10 weeks, making 20 weeks the maximum aggregate period of exemption available to an employer under these sections.

Fifth. Small newspapers: Section 13(a) (8) of the act presently provides a minimum wage and overtime exemption for employees of certain small newspapers if the major part of the newspaper's circulation is within the county in which it is both printed and published, or contiguous counties. This section is amended so that the major part of the newspaper's circulation need only be in the county in which the newspaper is published, or contiguous counties.

Sixth. Transportation companies: The minimum wage and overtime exemption for employees of street, suburban or interurban electric railways, or local trolley or motor bus carriers in section 13(a) (9) is amended by repealing the present exemption and by providing an overtime exemption for operating employees if the employer has annual sales of less than \$1 million.

The minimum wage and overtime exemption for employers in the taxicab business in section 13(a) (12) is narrowed to an overtime exemption for taxi drivers in section 13(b) (17).

Seventh. Logging crews: The present minimum wage and overtime exemption for logging crews of 12 or less is amended to exempt crews of 8 or less during the year beginning February 1, 1967, and

crews of 6 or less beginning February 1, 1968 and thereafter.

Eighth. Automobile, aircraft, and farm implement sales establishments: Section 13(a)(19), exempting any employee of establishments engaged primarily in selling automobiles, trucks, or farm implements from the act's minimum wage and overtime requirements is repealed, and an overtime exemption is provided for salesmen and mechanics employed by nonmanufacturing establishments engaged primarily in selling automobiles, trucks, trailers, farm implements, or aircraft to ultimate purchasers.

Ninth. Gasoline service stations: The overtime exemption for employees of gasoline service stations in section 13(b)(8) is repealed.

Tenth. Petroleum distribution employees: The unlimited overtime exemption of petroleum distribution employees of the type described in section 13(b)(10) is modified in an amendment of section 7(b)(3) by requiring the payment of time and one-half the applicable minimum wage for hours worked in excess of 40 in any workweek. Also, if such employees work in excess of 12 hours in any workday or 56 hours in any workweek, they must be paid at a rate not less than 1½ times their "regular" rates of pay.

Mr. President, we have been speaking primarily of newly covered employees. We now come to presently covered workers, numbering 29 million.

4. INCREASES IN MINIMUM WAGE

First. Presently covered employees: Employees now covered by the Fair Labor Standards Act would be entitled to a minimum wage of not less than \$1.40 an hour beginning February 1, 1967, and not less than \$1.60 an hour beginning February 1, 1968.

Second. Agricultural employees: The minimum wage for newly covered agricultural employees would be not less than \$1 beginning February 1, 1967; \$1.15 an hour beginning February 1, 1968; and \$1.30 an hour beginning February 1, 1969.

Thus, the minimum wage coverage for agricultural employees goes up to \$1.30 an hour and stops there under this bill.

The bill also provides that the employer of hand harvest workers paid on a piece rate basis shall be considered in compliance with the minimum wage requirements if the average earnings of his piece rate workers in a workweek exceed the minimum hourly wage. However, this provision requires that every worker be paid at least 75 percent of the applicable minimum wage.

Third. Newly covered employees: Employees newly covered by the act, except agricultural employees, would be entitled to a minimum wage of not less than \$1 an hour beginning February 1, 1967; and, through annual increases, to \$1.15 an hour, \$1.30 an hour, \$1.45 an hour, to the \$1.60 an hour over a 4-year period. Thus by February 1, 1971, all nonagricultural employees subject to the act would be receiving a minimum wage of at least \$1.60 an hour—bringing them to the same minimum wage as those presently covered by the minimum wage law by February 1, 1971.

5. EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

A two-step increase in existing wage order rates would be provided in Puerto Rico and the Virgin Islands—12 percent the first year and 16 1 year later. The review committee procedures provided in the 1961 amendments to the act are retained to assure that the increase in minimum wage orders will not adversely affect employment.

The minimum wages of employees in Puerto Rico and the Virgin Islands covered by the act for the first time would be established by special industry committees subject to the usual standard of reaching "as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed" for the employees involved.

6. CONTRACT SERVICES FOR THE FEDERAL GOVERNMENT

Under the bill every employer providing a contract service under a Federal contract or subcontract to section 2(b)(1) of the McNamara-O'Hara Service Contract Act of 1965 must pay his employees not less than the applicable minimum wage applicable to newly covered workers. This provision does not apply with respect to "white collar" workers. Also employees whose rate of pay is governed by the Service Contract Act, or employees now covered by the Fair Labor Standards Act, would be exempt from this provision in order to safeguard existing wage standards.

7. FEDERAL EMPLOYEES

The bill would incorporate in a new section 18(b) of the act the policy of paying minimum wages and overtime pay as required by the act to certain Federal wage board employees, employees of naval facilities whose wages are established to conform with those in the immediate vicinity, and to employees of nonappropriated fund instrumentalities of the Armed Forces. The provision contemplates the continuance of existing administrative procedures relating to the payment of these workers. But it removes from the realm of administrative discretion the ultimate minimum wage floor.

Mr. President, the question has often come up as to what we mean by nonappropriated fund instrumentalities of the Armed Forces. There are many examples. One common one is the PX. The armed services PX's are not under appropriated funds, and their employees will now be covered.

The minimum wage applicable to these Federal employees will be the section 6(a)(1) rate—that is, the rate for presently covered workers—except in the Canal Zone. We have made an exception, Mr. President, in the Panama Canal Zone, where the minimum wage schedule for newly covered workers will apply.

8. APPLICATION OF MAXIMUM HOURS PROVISION

First. Presently and newly covered employees: The bill would retain the basic concept of time and one-half for hours worked in excess of 40 in a workweek. However, there are three-step adjustments to this standard in the case of nonfarm employees to be covered by

the act by virtue of the bill. For these employees, the maximum workweek would be 44 hours during the year commencing February 1, 1967; 42 hours during the year beginning February 1, 1968; and 40 hours after February 1, 1969.

Second. Commission salesmen: The bill provides that in determining the proportion of compensation representing commissions for purposes of the overtime exemption in the present section 7(h) of the act, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions without regard to whether they exceed a draw or guarantee.

Third. Hospital employees: This is a newly covered group, Mr. President.

The bill permits hospitals to calculate their overtime on a biweekly rather than weekly basis, provided that employees are paid time and one-half their regular rates of pay for workdays in excess of 8 hours and for hours worked over 80 in a 14-day work period. This basis of computing overtime may be used only where the employees of the hospital have reached an understanding with their employer that the work period is to be a period of 14 consecutive days.

9. ENIWETOK AND KWAJALEIN ATOLLS AND JOHNSTON ISLAND

An amendment of section 13(f) of the act makes its provisions applicable to employees in Johnston Island and in the Eniwetok and Kwajalein Atolls in the Pacific.

10. HANDICAPPED WORKERS

At the present time section 14 of the act allows the Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, to permit the employment of handicapped workers at wages lower than the applicable minimum wage. The bill adds two new subsections to section 14 relating to the employment of handicapped workers in sheltered workshops and the establishment of work activity centers.

The bill provides that handicapped workers employed in sheltered workshops must be paid wages commensurate with those paid nonhandicapped workers for essentially the same kind of work, but not less than 50 percent of the applicable minimum wage during 1967, 75 percent of such minimum wage during 1968, and 100 percent of such minimum wage thereafter. However, special certificates may be issued by the Secretary for less than the minimum wage in proportion to the worker's productivity where the work is incidental to a training or evaluation program, or under exceptional circumstances where handicaps prevent an individual from engaging in competitive employment.

The bill also authorizes the Secretary to establish special rates of compensation for handicapped workers employed in "work activity centers." A "work activity center," as this term is used in the bill, means an establishment designed exclusively for workers whose physical or mental handicap is so severe as to make their productive capacity inconsequential.

The Secretary is directed to conduct a study by January 1, 1968, to establish an

equitable means for setting the wages of workers in work activity centers. He is also directed to conduct a study by July 1, 1967, of wage payments to employees of sheltered workshops and the feasibility of raising wage standards in such workshops.

11. CHILD LABOR IN AGRICULTURE

The bill would prohibit the employment of any child below the age of 16 in an occupation in agriculture found by the Secretary of Labor to be particularly hazardous.

The accident rate in agriculture is exceeded only in the mining and construction industries, a fact which clearly underscores the need for according safety and health protections to children in agriculture.

12. STUDY OF EXCESSIVE OVERTIME

The bill directs the Secretary of Labor to begin immediately a complete study of present practices dealing with overtime payments for work in excess of 40 hours per week and the extent to which such overtime work impedes the creation of new job opportunities. The Secretary is to report his findings and recommendations to the Congress by July 1, 1967.

13. STATUTE OF LIMITATIONS

Section 601 of the bill amends the FLSA and the Portal Act—which contains the statute of limitations for the FLSA—to provide a 3-year—rather than a 2-year—statute of limitations for causes of action arising out of a willful violation of this law.

In closing, the bill represents an effort to fulfill the promise of the original act and to reestablish its role as the major instrument of the Nation's fair labor standards policies. It reflects a reexamination of current needs to remove substandard working conditions and an effort to change the act to remedy those needs.

Mr. President, I strongly urge the enactment of this bill.

I turn now from the detailed explanation of the provisions to a few general comments on the general law. For a little background on the matter, and exactly what is involved, I point out that the Fair Labor Standards Act, as I previously mentioned, was enacted in 1938 to meet the economic and social problems of that era, when, under the leadership of President Franklin D. Roosevelt, we were emerging from the great depression. Low wages, long working hours, and high unemployment plagued the Nation, which was then in the midst of an unprecedented depression. The policy of the act, as set forth therein, was to correct and as rapidly as practicable to eliminate labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers.

The Fair Labor Standards Act has proven through the years that its basic concept is sound. Despite the warnings of some critics who predicted the act would produce economic disaster, we have seen our economy emerge stronger than ever. Far from being an impediment to progress, the act has served as a foundation upon which has been built

a standard of living for our citizens which, as a whole, is second to none. It has enabled countless Americans to enjoy a dignity, security, and a general well-being which would not otherwise have been possible.

The great depression of the 1930's is now behind us. Gone too, for most Americans, are the substandard wages and sweatshop conditions which were then commonplace. Nevertheless, successful as the 1938 act and its amendments have been in achieving its objectives, large numbers of workers in interstate commerce remain outside the scope of part or all of the protection of the act.

As noted by Secretary of Labor Willard Wirtz in his testimony before the Senate Committee on Labor and Public Welfare:

The Fair Labor Standards Act of 1938 was a commitment to improve living standards by eliminating substandard working conditions in employment subject to Federal authority over interstate commerce. That commitment, incomplete when it was made, has become less complete with the passage of time. The law has not been kept in line with the advancing economy; and some of its guarantees mean less, comparatively, than they did 27 years ago.

Mr. President, the gap between the high earnings of the middle class and the low earnings of the lower class has widened. The earnings of the lower income group have become correspondingly lower when compared with the general income of other people than it was 27 years ago.

It is time for a new minimum wage law to give the people in the newly covered industries an opportunity to have the protection of this act.

It was evident to the committee that long working hours and wages which barely provide subsistence are still a daily way of life for far too many of our citizens. It was in recognition of this that the committee bill would extend the protection of the act to some 7.2 million workers, many of whom are among the lowest paid workers in the country.

Many of those people work in factories in jobs involving employment in excessive heat and other conditions detrimental to health.

At the present time there are over 60 million employed wage and salaried workers in the United States. Of this number, less than 10 million are public employees—7.2 million are State and local employees, and 2.3 million are Federal employees.

There are 47 million workers in private industry, of whom 29.6 million are presently covered by the act. Of the 7.2 million newly covered workers, 5.8 million are in private employment and 1.4 million are in public employment.

Mr. President, I think it is worthy of note that, of the 7.2 million newly covered workers, 1.4 million are in public employment. It was necessary that we have a new law to bring these people up to the very minimal standards.

Mr. President, of the 47,260,000 workers in private industry who are now under the coverage of the act, at this time 1.8 million are engaged in agricultural and fisheries industries; 559,000 are employed in mining; 3,029,000 are em-

ployed in contract construction; 15,851,000 are employed in manufacturing; 3,664,000 are employed in transportation, communications, and utilities; 3,015,000 are engaged in wholesale trade; 7,988,000 are employed in retail trade; 2,515,000 are employed in finance, insurance, and real estate; 6,253,000 are employed in services, excluding domestic service; and 2,504,000 are employed in what they call domestic service.

That is the total number of employees engaged in private industry, both covered and not covered. That is the source of the 60 million and of the 47 million.

Forty-seven million workers are engaged in industry, the exclusion there being domestic service which is not counted employment in industry. Out of that number, 29,500,000 are covered by the minimum wage law and 17½ million are not covered.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD in the interest of saving time, so that I do not have to read it, a tabulation appearing on page 2 of the committee report.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

Estimated number of private nonsupervisory employees covered under the Fair Labor Standards Act of 1938, by industry
(In thousands)

Industry	Total number of employees in private industry	Number of employees covered in private industry	Number of employees in private industry not covered or exempt
Agriculture and fisheries.....	1,882	-----	1,882
Mining.....	559	554	5
Contract construction.....	3,029	2,413	616
Manufacturing.....	15,851	15,207	644
Transportation, communications, utilities.....	3,664	3,474	190
Wholesale trade.....	3,015	2,092	923
Retail trade.....	7,988	2,593	5,395
Finance, insurance, real estate.....	2,515	1,869	646
Services (excluding domestic service).....	6,253	1,391	4,862
Domestic service.....	2,504	-----	2,504
Total.....	47,260	29,593	17,667

NOTE.—These estimates do not include public employment.

Mr. YARBOROUGH. The President of the United States, Lyndon B. Johnson, in his message to Congress of May 18, 1965, urged the Congress to extend the protections of the act to needy workers and said:

Many American workers whose employment is clearly within the reach of this law have never enjoyed its benefits. Unfortunately these workers are generally in the lowest wage groups and most in need of wage and hour protection. We must extend minimum wages and overtime protection to them.

The workers to whom the President referred are within the reach of the law because they are in interstate commerce and their work affects interstate commerce. They can therefore constitutionally be brought under the law.

Mr. President, I shall now read the number of employees—and the type work in which they are engaged—that

we are bringing under this law for the first time. I want to point out the type of work they are engaged in.

Mr. President, I ask unanimous consent to have a tabulation appearing on page 5 of the committee report entitled "Estimated Distribution of Private Non-

supervisory Employees Not Now Covered and the Number Who Would Be Brought Under Minimum Wage Protection of the Act of 1967 and 1969 by the Bill."

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

Estimated distribution of private nonsupervisory employees not now covered and the number who would be brought under minimum wage protection of the act in 1967 and 1969 by the bill¹

[In thousands]

Industry	Private non-supervisory employees not covered by the minimum wage provisions of the Federal Labor Standards Act	Employees added to minimum wage coverage			Total employees subject to minimum wage provisions
		1967	1969	Total	
Retail trade.....	3,642	1,155	345	1,500	4,086
Restaurants.....	1,753	300	125	425	432
Hotels and motels.....	549	240	35	275	275
Hospitals and related institutions.....	1,008	1,471		1,471	1,471
Miscellaneous services.....	1,460	20	30	50	349
Laundries.....	505	505		505	523
Agriculture.....	1,895	390		390	390
Transit systems.....	15	60	5	65	65
Agriculture in the area of production.....	90	90		90	90
Taxicabs.....	122	75	25	100	100
Small logging.....	87	37	12	49	49
Cotton ginning.....	34	34		34	34
Construction.....	583	581		581	2,994
Federal Government.....		685		685	685
All other industries.....	5,924	570	390	960	25,230
Total.....	17,667	6,213	967	7,180	36,773

¹ Based on estimated employment in 1964.

² Includes 463,000 employees of State and local government hospitals.

³ Includes 55,000 employees of State and local government transit systems.

⁴ Effective Feb. 1, 1968.

⁵ Includes 170,000 employees of State and local government institutions of higher education.

⁶ Includes 668,000 employees of State and local government agencies.

Mr. YARBOROUGH. Mr. President, I shall now refer to the newly covered people who are being brought under the coverage of the minimum wage law for the first time.

In the retail trades there are approximately 1,500,000 workers. In the restaurants, there are approximately 425,000 people. In the hotel and motel industries there are approximately 275,000 people. In the hospitals and related institutions there are 1,471,000 people. There are 50,000 people who work in miscellaneous services. There are 505,000 people who work in laundries. There are 60,000 people working the transit systems. There are 90,000 people working in agriculture in the area of production; 100,000 people work in the taxicab industry; 49,000 people work in small logging crews; 34,000 people are employed in cotton ginning; 581,000 people are employed in construction; 685,000 people who work for the Federal Government will be covered. The total number of employees who will be covered in all other industries is 960,000. This makes a total of 6,790,000, and 390,000 in agriculture, for a total of 7,180,000 workers who will be brought under the coverage of this legislation for the first time.

Mr. President, the inclusion of these workers within the coverage of the act when the raises become effective in 1971 will bring them up to the minimum which is required to get them up to the poverty level—\$3,000 annual income. I think the passage and enforcement of this legislation will be a forward step in the

development of American social and economic well-being and the national well-being. We have many antipoverty programs. I think that bringing people up to this level of earnings is the first and basic antipoverty program that we ought to have in the country. I think it will do more good to pay the people living wages than would any other such program we have, although I have supported and am in favor of all the other programs aimed at relieving poverty in this country.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I am the ranking minority member of the committee which has reported the bill, and also the ranking minority member of the subcommittee which dealt with the measure; and I wish on the whole, to commend the bill to the Senate.

Undoubtedly, amendments will be made to the bill—or, at least, will be considered by the Senate—but, fundamentally, the thrust of the bill, in my judgment, is eminently correct. In about a year and a half, it will result in putting the minimum wage at a level which, considering today's cost of living, represents an amount very close to the sub-

sistence level; and it represents the traditional advance by workers in the United States, based upon the considerations of greater productivity and greater industrial power as a concrete base under the economy.

So, Mr. President, I believe that the first and basic decision is an economic decision, one of economic policy, and that we have made that decision affirmatively and quite correctly.

Mr. President, an important point which is frequently overlooked in these matters—because people argue so heatedly about individual details of the bill, many of which the Senator from Texas [Mr. YARBOROUGH] has properly and carefully discussed—is that the main thrust of the bill is basically to increase the minimum wage, to take into account the productive power of the country, and to represent another milestone in the forward progress of the American working man and woman at the lowest end of the scale.

First and foremost, therefore, let me speak to the propriety of this figure and of the dates upon which it shall take effect, because we will find, as we go along, that we will be debating many other matters, and this is the main point.

First, as to the propriety of the figure: Generally speaking, the States—certainly, the industrial States—have begun to recognize the need for a higher minimum wage.

My own State of New York is probably the largest business State in the country, in terms of population, output, and State and national product per annum. We have a \$1.50 minimum wage. In many respects, the New York law is better than the bill before us. It is significant that over a year ago I introduced a bill for \$1.50 minimum wage, which has been a crying need in the Nation for a long time.

The schedule in the bill demonstrates that on February 1, 1967, the minimum wage will be \$1.40; on February 1, 1968, \$1.60.

I should like to digress at this point, because these figures represent a material difference between the Senate bill and the bill in the other body, which delays the second increase for another year. There will be considerable argument about that, Mr. President, and the main reason for the debate will be that the swing this time—to wit in 1 year—is shorter than it has been traditionally. Traditionally the increase has not been quite so sharp.

Undoubtedly an excellent table will be shown to the Senate—as it was shown to us in committee—which graphically delineates that situation.

I think it is fair to say that we were guided in legislating for a year sooner than the other body by the fact that we felt \$1.60 was overdue now, and that, hence, the sooner justice was available to those who are already covered under the minimum wage, the better it would be for the Nation and for the cause of justice, so far as the individual worker is concerned.

Also, it is significant that for the roughly 7,200,000 employees to be newly

covered, the rate of rise to the \$1.60 level will be very much slower. Indeed, in the field of agriculture, \$1.60 is not even provided for by the bill, the highest minimum wage being \$1.30, to be attained February 1, 1969. Hence, we were taking care of the transitional people among those who are newly covered. We found, so far as those who are covered is concerned, that \$1.60 is overdue, and that, therefore, any deferment was simply an accommodation to business opinion, which did not want the rate to rise right away. Really, we should have and could have legislated \$1.60 as of February 1, 1967. I believe that those who oppose such a rise really have the burden to demonstrate that it should not have been done, because I consider the one year which was granted as simply a deference to business opinion, which I and others have acceded to along that line, but without really any substantive basis to justify it.

It is very important at a time when there is widespread discussion of inflation to consider inflation in respect to this proposal. The inflationary problem does not, in my judgment, relate to the minimum wage, certainly within the limits in which we are raising it. On the contrary, I believe it helps us to deal with the inflationary problem by spreading the capability for consumption much more widely by a modest increase above the present minimum wage when we have at the very lower end of the scale literally the poverty-stricken worker earning a minimum wage which is really inadequate to keep body and soul together today.

The working poor, who are the primary beneficiaries of the bill, should not be asked to bear the burden of anti-inflationary methods. I shall not discuss the inflationary situation now, because it is not apposite to this particular discussion. But certainly the pressure is on in terms of higher interest rates and will, with respect to homes and home-building particularly, as well as other aspects, bear down upon the working poor. Certainly, they are entitled to some help in meeting anti-inflationary pressures themselves through a modest increase in the minimum wage.

Nor is this situation affected by "guidelines," which relate to overall wages, and not to the people who are at the bottom of the ladder. We hear as an objection to an increase in the minimum wage that such an increase will cause the whole structure of wages to rise above that rate, and that there will be pressure to escalate higher wages above their present level because of the increase in the minimum wage.

Theoretically this may sound logical, but it is strictly superficial, because our experience up to now with other increases in the minimum wage has not shown that pattern.

There is an effort to increase wages. We have just seen that take place in the airline strike, and it will take place in connection with other businesses. The communication workers are now negotiating with respect to their contract. But the inflationary argument does not have relevance to a modest increase in the

minimum wage of this character because the concrete base, as it stands today, is not taken into consideration—whether it will or will not support the increases sought. The \$1.60 minimum will not—by raising the lowest plateau—cause a material effect on the structures above.

We are dealing strictly with a question of the underprivileged who are at the bare poverty level, and whom we are trying again to bring somewhat abreast of the new productivity, as well as new demands in terms of the cost of living in the country. These working poor are now caught in a squeeze. In many jobs there are greater technical requirements than they can meet. The cost of living, through an inflation to which they did not contribute, is presented to them from the other side. So they are entitled to some relief consistent with the productivity of the country.

I believe, on the economics, the \$1.60 minimum obtained after a year and a half, stands up.

Dealing with the detailed aspects of the bill, there are many compromises in the bill. There was much discussion in the committee about various newly covered workers, in activities such as hospitals, logging, working for the Federal Government, and working in the Canal Zone. The question of transit employees was a very vexing one. We settled it by drawing a line between what we call large and small companies. Employees who are tipped represent a very grave problem. I think that we worked out a reasonably fair compromise on that problem.

In addition, an amendment was introduced by the distinguished minority leader [Mr. DIRKSEN], and carried through in the committee sponsored by the Senator from Vermont [Mr. PROUTY] and myself, dealing with those called as witnesses in court. I believe it is very important element of justice in this bill to look after the compensation of witnesses who appear in Federal courts, and who lose a day's pay or more, and it very much belongs in a bill of this character which deals with that kind of compensation.

There were compromises made in all of those matters, including hospital employees, parts men who work for automobile dealers, caretakers of apartment houses, various trainees in the retail and service trades, nursing homes, the cowboy—the range livestock employee, as we call him in a rather fancy way—the problems of those who work in sheltered workshops, the handicapped, those in the sugar industry and a few other categories. All of those compromises were, I think, fairly done and, I represent, on behalf of the minority, were hard fought, thoroughly scrutinized, and examined. There was an extraordinary and, I think, commendable absence of steamroller tactics in the committee. The subcommittee operated in a free, open and democratic way under the chairmanship of the Senator from Texas [Mr. YARBOROUGH], to whom I pay tribute now.

The chairman of the subcommittee [Mr. YARBOROUGH] was most solicitous that, if humanly possible, nothing should be crammed down the throats of

the minority. I feel that no such attitude characterizes any amendment, even those I lost or members of the minority lost, but a very fair effort was made to meet our views.

I come now to the aspect of new coverage, which is so vitally important in the bill. I know that in connection with newly covered nonfarm employees who are largely in the retail trades there is a big question with respect to the beginning point of gross volume of business under which such employees should be covered. In a stepdown process in the bill we finally arrived at \$250,000 in annual gross volume after February 1, 1969.

The amount of gross volume is a vexing question, Mr. President, it seems to me. A very considerable period of time, nearly 3 years, is given for the retail trade to adjust to the provision, with minimum wages stepping up from only a dollar to the final \$1.60 level on February 1, 1971. So every accommodation and consideration has been given to the small retailer who might meet the test of \$250,000 in gross volume or more.

I wish to point out that there is no question about the fact that these are small retailers, when we get down to that level, especially with prices what they are today. But unless we are willing to subscribe to the position that in a period of 5 years every American who works for a living, at the very least should be entitled to \$64 a week for a 40-hour week it seems to me that we beg the question and avoid our responsibility. Really, coverage should go down to \$1 of sales, except that in that instance there would be involved a recordkeeping problem and there has to be some rough rule of thumb to exclude the very tiniest of enterprises. So, the \$250,000 standard is not to be considered in terms of an equity judgment that small business should not have minimum wage employees, but rather a practical judgment that for a business that small—less than a quarter of a million dollars a year—it would be probably unfair and unreasonable, as so many are family owned and managed. For that reason, in my judgment, the \$250,000 limit is intelligent and fair.

I make this statement because there are no economic theories which, in my judgment, would justify anyone in the United States working for less than a \$1.60 an hour minimum, after 5 years, in the manufacturing industries or the service trades.

I conceive of the \$250,000 limit as a practical limit in terms of obligations on the part of proprietors of businesses, and in terms of the U.S. Government which, through the Wage and Hour Division, must exercise supervision.

Mr. President, we come now to the question of agricultural employment, a problem which has vexed the committee. For the first time, agricultural workers are being covered. More and more people are leaving the farms and going to the cities. They are doing so for two reasons: One, conditions of living and opportunities for recreation, which may appeal to more people in the cities than in the rural areas; but, two, also to take

advantage of the economic opportunities which the cities offer.

The earnings level on the small- and medium-sized farm has tended to be quite low throughout the country.

In addition, farm labor has been difficult to obtain. The general standards of farm labor have lagged materially behind the standards of workers in industry and the service trades. There has been a great deal of investigation, especially by the Senator from New Jersey [Mr. WILLIAMS], as chairman of the Migratory Labor Subcommittee, we have been appalled by the conditions—which we find to be intolerable in modern times—on the farm for migrant laborers. Here we are putting agricultural workers under some sort of minimum wage, again on a slowly stepped-up basis, adding only a ceiling of \$1.30, on February 1, 1969, which represents an elementary measure—a recognition of the fact that farms, in so many cases now, are largely factories for the production of food and fiber. They are no longer the bucolic paradise which ancient legend and ideas would have us believe—not that it was anything but admirable and magnificent, and made our country what it is today.

This is another world and another day. Placing agricultural workers under the minimum wage is, at long last, an effort to recognize that fact.

I come now to the first of the committee amendments which I shall propose. Interestingly enough, this concept of a bucolic paradise, which did not influence the committee so far as putting agricultural workers under the minimum wage is concerned, suddenly obscured the vision of the majority of the committee when it came to child labor in agriculture. What was not a bucolic paradise became one. A majority of the committee turned against a prohibition on child labor generally, equivalent to the prohibition which we have had for many years in the industrial parts of the minimum wage law. This was attempted to be justified on two grounds: One, that it would be good for children outside of school hours to work on the farm; and, second, that the children of migratory workers could be much better looked after and cared for if they worked next to their parents.

The only concessions the committee made to child labor were: first, to state that children might not work during school hours—of course, as everyone knows, that is a flexible standard in many towns and villages throughout this country which have agricultural labor; and second, that children under 16 should not work in occupations described as “particularly hazardous” by regulations of the Department of Labor.

The fundamental idea that a child of any age, even one under 12, could work in the fields anywhere for piece-rate compensation, without a minimum wage or anything else, that such children could work next to their parents who were migratory laborers working in the fields, the committee refused to do anything about.

I think it is a great mistake. It is a throwback to another day. It is com-

pletely inconsistent with the recognition of the status of the agricultural worker as shown by giving him the minimum wage. I feel constrained, therefore, to bring in a child labor amendment which will complete the scheme of action with respect to child labor substantially as it is in the industrial section of the bill.

In my supplementary views, I have presented this matter in detail. At pages 70 to 73 of the committee report, the supplementary views, signed by myself and the Senator from New Jersey, [Mr. WILLIAMS], the problem is clearly set forth, with some graphic illustrations of how it works based upon investigations into the field of labor by children working in agriculture.

Mr. President, at this point I ask unanimous consent that the Senator from New Jersey [Mr. WILLIAMS], may be made a cosponsor of my amendment No. 759.

The PRESIDING OFFICER (Mr. LAUSCHE in the chair). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, the other point I wish to raise in the proper way, in the course of our discussion, is a section which we put into the airlines strike bill and which—very happily for all of us, because the airlines strike bill proved to be unnecessary—did not become law. That is, a mandate to the Secretary of Labor to come forward with recommendations, by the middle of January 1967, as to what should be done about strikes which represent a national emergency or which seriously jeopardize the national health and safety.

This is probably the only labor bill which the Senate will consider at this session of Congress; hence, it is my hope that the provision which seemed to find great favor here and which seemed to find much support in the other body may be made a part of the bill and be the subject of our conference in what is a highly essential action by the executive department in this field, where we were found to be vulnerable both in the 1963 firemen's and enginemen's threatened strike and in the airlines machinists' strike.

Finally, every member of the minority feels that it is his duty to raise one other question concerning the bill—that is, the question of age discrimination in employment. It properly belongs, in our judgment, under the administration of the Wage and Hour Division of the Department of Labor. This is where we dealt with the question of nondiscrimination in employment on the basis of sex. We believe that age discrimination in employment represents a serious question before the country. Many States have already taken action to seek to eliminate it. We believe that the pending bill is the proper place in which to seek to eliminate it on the Federal level.

Thus, I shall have the honor, together with the Senator from Vermont [Mr. PROUTY], the Senator from California [Mr. MURPHY], and the Senator from Michigan [Mr. GRIFFIN], of sponsoring that amendment to the pending bill.

To sum up, we have a minimum wage bill which in its minimum wage coverage takes account of the productivity and

the cost of living. It is not inflationary because it deals with the lowest wage element in the population. It merely serves to correct an inequity, in that these workers are materially lagging behind the parade.

It is not inflationary in its effect upon the higher wage and salary levels, because experience has shown the two do not have a direct relationship, though superficially many businessmen are afraid of it. When the minimum wage plateau has been raised to a moderate level, it does not bring about wage demands at higher levels which are quite outside this compass.

Finally, we are covering new categories in the retail trade, which need to be covered. We have drawn the line at \$250,000. That line was drawn for practical reasons, not for economic reasons, because, economically, everyone should be entitled to have a minimum wage, whether he works in an establishment doing \$250,000 worth of business or not. But the practicality involved is that it is difficult to enforce such a law in very small establishments.

We have covered agricultural workers. It is high time they were covered, because, as I have said, they are, in effect, factories operating turning out food and fibers.

There are amendments, as I have said, which I shall propose with respect to child labor, as well as with respect to emergency strikes, which is necessary in getting the Secretary of Labor to make recommendations. And there is a proposal against discrimination in employment on account of age.

I commend the bill and the Senator from Texas [Mr. YARBOROUGH], who has done an extraordinarily fine and just job in bringing the bill to its present state. The amendments which I shall propose do not go to the essence of the bill, with which I thoroughly agree.

I believe we have the very great privilege of having an opportunity to pass a measure which represents a necessary element of justice to what are called the “working poor” in our country, which can only be a benefit to our overall economy and contribute to the prosperity of our beloved country.

Mr. YARBOROUGH. Mr. President, will the Senator yield for a moment?

Mr. JAVITS. I yield to the Senator from Texas.

Mr. YARBOROUGH. I thank the distinguished senior Senator from New York, who is the ranking minority member of the committee, and the ranking minority member of the subcommittee which considered the bill, not only for his kind and generous remarks, but for his faithful attendance at the meetings of the subcommittee and of the full committee.

This bill is not before the Senate as a result of some sudden hearing. I point out that the subcommittee had public hearings on amending the Fair Labor Standards Act last year, commencing on July 6, 1965. Those hearings in 1965 continued for 9 days, until July 16. They were resumed in January of 1966 for 3 days. Testimony was received from 125 witnesses, including the Secretary of

Labor W. Willard Wirtz, and other witnesses from government, industry, labor, and other interested groups.

In addition, hundreds of letters, statements, and additional information which was submitted to the committee were included in the hearing record. The hearing record consists of these three volumes which I hold in my hand. There is an additional fourth volume of the hearings conducted by the Subcommittee on Migratory Labor, chaired by the Senator from New Jersey [Mr. WILLIAMS]. So we have four volumes of hearings on this bill.

The subcommittee had 38 calendar days of consideration of the bill, including 14 days of actual committee meetings and executive sessions. The consideration of the bill spread over 36 days, including 4 days of actual hearings, and we had live quorums on those 14 days, due to the cooperation of the minority. Members of the minority did not stay away from the committee in an effort to try to kill the bill, as we have seen happen previously. It did not happen in this instance.

Under the leadership of the senior Senator from New York, the Members came, helped form a quorum, and worked on the bill, not as obstructionists, but with honest differences of opinion. I may point out that the full membership of the committee is 16. We sometimes had votes of 8 to 8. Votes of 9 to 7 were frequent.

I think it is a good bill. I did not agree with every provision of it, but I believe it is time to move forward and bring this bill to action.

We had 8 days of consideration in the full committee, spread over quite a few calendar days.

I want to thank all members of the Committee on Labor and Public Welfare, the minority members as well as the majority, for their faithful attendance and for enabling us to have live quorums. Under the rules of our committee, a quorum consists of a majority; we must have nine members present. We had those quorums present and we were able to conduct our hearings. The members of the minority cooperated. They offered amendments. The distinguished Senator from New York, as the leader of the members of his party on the committee, as well as the other members of the committee, are responsible for bringing this bill before the Senate. It is an important measure, affecting millions of people, millions of families, and the well-being of our Nation.

Mr. JAVITS. Mr. President, I am grateful to my colleague for his gracious remarks. I would like to pay tribute to my colleagues of the minority who were diligent in their work and study of the bill and in their attendance and in their very constructive efforts to act with respect to the bill in a most responsible manner. They will be heard individually. We are not all of the same point of view, but every point of view was articulated, after sound study, on both sides of the question.

ANNOUNCEMENT OF REASON FOR SENATOR MURPHY'S ABSENCE DURING CONSIDERATION OF BILL

Before I yield the floor, Mr. President, I wish to announce that the Senator from California [Mr. MURPHY], who is a member of the minority on the Labor and Public Welfare Committee, and who had a very important part in shaping this measure, and amendments to it—some of which prevailed, some of which did not—will, most regrettably, not be present in the consideration and votes on the bill. He has been required, in the interest of his health, to enter the hospital for a minor operation. He will be spending some days recuperating before he returns to Washington, as he literally exhausted his voice in extensive speaking engagements since his election. He wants to go ahead with his duties this fall, but he will be absent in the interim, in order that he may again be able to proceed with his vigorous efforts. He will be greatly missed. We shall do our utmost to reflect the views of the Senator from California [Mr. MURPHY]. The bill in many aspects bears his stamp.

I speak with regret, but as a matter of necessity, to account for the absence of the Senator from California [Mr. MURPHY].

Mr. FANNIN. Mr. President, I am not opposed to the concept of a minimum wage and I support every measure which will, in my opinion, improve the economic welfare of American workers. I am not persuaded, however, that this bill in its present form constitutes such a measure.

I believe sound economic and fiscal policies which are the best insurance of a high level of general business activity will, in turn, assure profitable employment and adequate jobs for our citizens. Our past prosperity and the enormous expansion of our economy have developed under these sound principles.

This bill runs contrary to these principles and seems to proceed on the theory that it is a simple matter to legislate wages and that it is not necessary to pay heed to such basic factors as productivity, supply and demand, and competition. To ignore these principles in normal times is dangerous. But to do so now in a time of high inflationary pressures and sky-high Government expenditures is to gamble with the economic health of our country.

Today, everyone from the President to the so-called man on the street is alarmed over the growing threat of inflation to our economic well-being. The President has established guidelines in an effort to curb these pressures. Yet in the face of all this concern the amendments here proposed would force prices upward from 5 to 10 percent. These figures were revealed in a survey by the largest retail association in the country. Operators of 339 retail stores in 38 States say that price rises will be necessary to cope with the higher costs that would be forced upon them by this bill.

One of my principal objections to this bill is that it contemplates an increase

to the \$1.60 minimum at far too fast a rate, which could result in the loss of jobs. As reported by the committee this bill would provide for a 20-cent minimum wage increase to become effective on February 1, 1968, only 12 months after the economy has absorbed the 15-cent increase to \$1.40. This is an increase of over 14 percent. Contrast this with the 3.2 percent Presidential guideline figure and the highly inflationary effect of this bill will be apparent. It should be clear that a minimum wage increase which is forced upon the economy at too fast a rate to be properly absorbed can only produce circumstances under which the American worker will have less dollar for dollar purchasing power than he has today.

In subcommittee, I offered an amendment which would have made the \$1.60 rate effective in February 1970. This would have spread the 14.3 percent increase over a 3-year period and would have produced a yearly increase of approximately 4.7 percent, a figure considerably less inflationary and more in line with the guidelines. This amendment was rejected with a minimum discussion of its merits. In the full committee I offered an amendment which would have stretched the increase to \$1.60 over a 2-year period. This amendment would have produced a percentage increase of 7.2 percent, a figure considerably in excess of the guidelines but far easier on the economy than the committee's 14.3 percent. But even this attempt to ease the adjustment of the higher rate was summarily rejected.

In my individual views there appears a chart showing the pattern of minimum wage increases and effective dates established in past amendments to this act. From this chart it will be seen that the 36-month stretchout is actually within the pattern but that the 12-month and even the 24-month periods break this historical pattern and are without precedent in almost three decades of minimum wage legislative history. In my opinion, the failure to remedy this highly inflationary stepup to the \$1.60 rate will be a serious mistake.

Another feature of this bill disturbs me. The committee lowered the present \$1 million volume-enterprise cutoff test to \$500,000 in 1967 and to \$250,000 in 1969. I offered an amendment in committee to hold this figure at \$500,000 because, in my opinion, the record clearly established that such an amendment was necessary to protect small business.

The amendment was not accepted. This was interesting in view of what this committee's report had to say in 1961 about the \$1 million volume-enterprise test which had just been approved. On page 44, Senate Report No. 145, 87th Congress, 1st session, there appears the following:

This volume of purchase and receipts of interstate goods, together with the gross annual sales volume of \$1 million or more exclusive of specified taxes, should provide more than adequate assurance that the newly covered enterprises will be those plainly

engaged to a substantial extent in interstate commerce and should make it abundantly certain that no small local business will be affected.

The present bill, which covers enterprises doing an annual volume of \$500,000 or more in 1967, and which would extend this coverage to those enterprises doing more than \$250,000 in 1969 departs substantially from the principles quoted above. Is it possible that in the short space of 5 years our opinions on this vital point have changed 75 percent? Is it now felt that a small store with, say, six or eight employees, should be subject to the voluminous provisions of the Fair Labor Standards Act? That the proprietors of these stores should have to try to cope with the restrictions set forth in some 300 pages of rules, regulations, and interpretations that accompany the act is certainly beyond the realm of practicality.

The proposed coverage brings small local business immediately into coverage. There are no exact figures on how many retail establishments would be affected by the bill, but there are definite indications that the number is substantial.

The 1963 Census of Business reports that there were 24,600 single-unit retail establishments doing between \$500,000 and \$1 million. These independent individual stores were owned or operated by a single proprietor, partnerships, or corporation, but were not connected with any other store. In the category between \$300,000 and \$500,000 there were 37,500 single-unit stores. Thus we have a minimum of 62,100 single-unit stores which would be affected by the provisions of the bill. To this number could be added stores doing between \$250,000 and \$300,000—for which the census provides no breakdown, and a number of small retail, multiunit enterprises—two, three, or four stores for the most part, whose combined volume would be substantially less than \$1 million. The number of employees involved (Bureau of Labor Statistics) is approximately 960,000.

This bill would force a 60-percent increase in the legal minimum wage in the short period from 1967 to 1971 for some of the smallest stores in the Nation. Even those stores presently covered would find their profits either drastically reduced or disappearing entirely. In fact, at the \$1.60 rate, 42 percent of the stores indicate that they would be operating at a loss of varying degrees, even though steps were taken to reduce operating expenses.

Even raising prices will not solve all the problems. Businessmen state they will have to reduce their work forces substantially and even then will be faced with the grave problem of whether or not they can remain in business.

Higher prices, fewer jobs, and the curtailment of small business in this country might be an oversimplification of the end results of the proposals contained in this report, but the fact remains this is what may happen.

If we are concerned with the devastating effects of inflation, the plight of the unskilled and untrained worker, and the survival of the small businessman, and if we are interested in preserving the urban areas of our cities and towns, then we

must provide for excluding from the act the smaller enterprises. In my opinion a cutoff volume enterprise test of \$500,000 is a reasonable compromise between existing law and the committee's proposal.

Without the amendments I have suggested, this bill may well contribute to increased living costs and more unemployment among the unskilled—the exact opposite of what all of us are trying to achieve.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTION OF COMMITTEE REPORT (NO. 1478)

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that a correction be made in the committee report (No. 1487) on the pending bill, H.R. 13712. In a quotation from the bill, the last three words on line 12, page 52, read "any highly perishable." The word "highly" is in error, and I ask unanimous consent that that word be deleted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YARBOROUGH. The first three words of line 17 on page 52 read "highly perishable agricultural." The word "highly" is included in error at that point also, and I ask unanimous consent that it be deleted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YARBOROUGH. The official bill as filed is correct, but this error in the report was picked up from a print before technical corrections were made in committee, and these two words were included in the report in error.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MONTROYA in the chair). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MCINTYRE in the chair). Without objection, it is so ordered.

Mr. YARBOROUGH. Mr. President, a parliamentary inquiry.

Are there any amendments pending to the pending bill, H.R. 13712?

The PRESIDING OFFICER. The committee amendment in the nature of a substitute.

Mr. YARBOROUGH. Mr. President, I move the adoption of the committee amendment in the nature of a substitute.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. YARBOROUGH. Mr. President, a parliamentary inquiry. Are there any other amendments pending to the bill?

The PRESIDING OFFICER. No further amendments are in order.

Mr. YARBOROUGH. Mr. President, if there are no further amendments—

Mr. DOMINICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the committee amendment in the nature of a substitute, which was just agreed to, be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The bill is open to amendment.

Mr. FANNIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. FANNIN. Mr. President, reserving the right to object—

The PRESIDING OFFICER. The Senator cannot reserve the right to object at this time. The Senator may ask for a quorum call.

Mr. FANNIN. Mr. President, I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to amendment.

Mr. FANNIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 219 Leg.]

Boggs	Javits	Neuberger
Burdick	Jordan, Idaho	Randolph
Byrd, Va.	Kuchel	Ribicoff
Carlson	Magnuson	Russell, S.C.
Dirksen	Mansfield	Stennis
Douglas	McIntyre	Symington
Fannin	Monroney	Tydings
Hart	Montoya	Williams, Del.
Hill	Morse	Yarborough

Mr. LONG of Louisiana. I announce that the Senator from Alaska [Mr. GRUENING], the Senator from New York [Mr. KENNEDY], and the Senator from Utah [Mr. MOSS], are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from North Carolina [Mr. ERVIN], the Senator from Indiana [Mr. HARTKE], the Senator from Arizona [Mr. HAYDEN], and the Senator from Montana [Mr. METCALF] are necessarily absent.

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from California [Mr. MURPHY] are absent because of illness.

The Senator from Wyoming [Mr. SIMPSON] is necessarily absent.

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the presence of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana. [Putting the question.] The motion is agreed to; and the Sergeant at Arms is directed to execute the order of the Senate.

After a little delay, the following Senators entered the Chamber and answered to their names:

Aiken	Gore	Muskie
Allott	Griffin	Nelson
Anderson	Harris	Pastore
Bass	Hickenlooper	Pearson
Bayh	Holland	Pell
Bible	Hruska	Prouty
Brewster	Inouye	Proxmire
Byrd, W. Va.	Jackson	Robertson
Cannon	Jordan, N.C.	Russell, Ga.
Case	Kennedy, Mass.	Saltonstall
Church	Lausche	Scott
Clark	Long, La.	Smathers
Cooper	Long, Mo.	Smith
Cotton	McCarthy	Sparkman
Curtis	McClellan	Talmadge
Dodd	McGee	Thurmond
Dominick	McGovern	Tower
Eastland	Miller	Williams, N.J.
Ellender	Mondale	Young, N. Dak.
Fong	Morton	Young, Ohio
Fulbright	Mundt	

The PRESIDING OFFICER. A quorum is present.

The bill is open to amendment.

Mr. JAVITS. Mr. President, may I explain one thing for the benefit of my fellow Senators?

The PRESIDING OFFICER. The Senator will suspend until order is restored. The Senate will be in order. Senators will take their seats.

The Senator from New York may proceed.

Mr. JAVITS. We had thought, Mr. President, that votes on amendments to the pending measure—and there are a number of amendments—would be deferred for a little time, because the report on the bill has just been placed on Senators' desks this morning. That is the explanation I offer to the Senate for what might seem to be a slight delay.

I understand now, after having consulted with the majority and minority leaders, that within the bounds of reason and propriety, we are ready to consider anything that any Senator wishes to bring up.

I understand some Senators have amendments. We would rather hope—and it shall be my duty, pursuant to the wishes of the minority leader, to make sure—that we will not actually vote finally on the bill, or even close it off from further amendment, until tomorrow; but certainly the business of the Senate can go forward with speed and efficiency as far as we are concerned.

The explanation for the hour, 1:45, is only the fact that Senators should have had an opportunity to read the report, which I hope very much they have had by now; the minority leader quite properly wished to give them that opportunity, and I have acted accordingly.

So I hope very much that now, if Sen-

ators have amendments, that they may be brought forward and proposed.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. WILLIAMS of Delaware. I can understand why the amendments may not be ready for this bill. After all, we should face the fact that while this bill, as I understand, was ordered reported about 10 days ago, it was not presented to the Senate until late yesterday afternoon, and no Senator except the members of the committee has had a chance to see it until about 2 hours ago.

I do not see any excuse for that. This measure has been before us for the last several months, and to suddenly bring it out here and ask Senators to vote on it before they have had a chance to read it overnight, I think, is indefensible. This Texas steamroller has got to slow down. I do not think we should take any action on it today.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. JAVITS. Of course.

Mr. MANSFIELD. I want to assure the Senator that this bill does not stand the chance of a snowball in Hades of passing today.

Mr. WILLIAMS of Delaware. The Senator is correct.

Mr. MANSFIELD. I have hopes about tomorrow. However, it may even be Saturday before we get final passage. We did try to get copies of the bill and the report distributed to all offices around 8:30 or 9 o'clock this morning.

Mr. WILLIAMS of Delaware. The majority leader has been very fair about the matter. But some of us were rather disturbed awhile ago when we found there was an effort to get the third reading on the bill and foreclose amendments before we had even had a chance to look at it.

Mr. MANSFIELD. There was no effort or intention to get a third reading today.

Mr. JAVITS. May I explain to the Senator from Delaware that sometimes the practice on the floor brings one almost to the breaking point. There was nobody here. The Senator from Texas [Mr. YARBOROUGH] was practically alone. I necessarily had to go over to the Rayburn Building for a few minutes; and at the moment, there did not seem to be any other course to follow but to let the matter run its course. But that was promptly righted, and I know the majority leader would have been the first to undo it, even if it had, in an untoward way, occurred.

Mr. YARBOROUGH. Mr. President, there was no effort to pass the bill in the absence of opposition. We made efforts here from 10 o'clock until 1:25 to get some Senators onto the floor. But for the most important measure of this session, we did not have 10 Senators here, from both parties, for 3 hours and 25 minutes. So we finally took measures to get a few Senators onto the floor. We knew they had been talking about amendments.

We all know the importance of this

measure, to raise the minimum wages of 30 million Americans who now receive a minimum wage that practically puts them in the poverty bracket, if all they receive is the minimum wage, and to bring under coverage 7,200,000 more Americans.

I think if Senators have amendments or positions on the bill, they ought to be stated. So after 2 hours, after taking action to obtain a live quorum, we have a majority here.

Mr. DIRKSEN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. DIRKSEN. Mr. President, I would not want the RECORD to stand precisely that way, and give a misimpression to the public. The fact of the matter is that we on the Judiciary Committee met at 9:30, and were in session until after 12 o'clock. We had one vote after another. We accomplished very little; we raced up and down hill; but there was a full attendance. The Appropriations Subcommittees were in session, marking up bills.

So if anybody reads the statement of my friend the Senator from Texas, and concludes that Senators were remiss in their duty, the fact is that we had agreed that committees could meet until 12 o'clock, so that they could go ahead with the business of the Senate. In consequence, Senators cannot be here and in the committees at the same time. I think that situation was universally true for nearly every standing committee of the Senate.

Mr. YARBOROUGH. Mr. President, I was not attempting to place any onus on the minority party for any delay.

Mr. DIRKSEN. Oh, not our party alone.

Mr. YARBOROUGH. As had been stated earlier, under the leadership of the distinguished senior Senator from New York, the minority party very faithfully came to the many executive sessions we had in the committee on this bill, and it was with the full cooperation of the minority that we brought the bill to the floor, by a vote of 15 to 0, from the Committee on Labor and Public Welfare.

A period of 38 days was covered in the Labor Subcommittee in the consideration of amendments, including 14 days of active session, and over a month in the full committee, with many days in session. As was pointed out earlier, some of the amendments were tied, in the committee, by a vote of 8 to 8, and were lost. Some were agreed to by a vote of 9 to 7. We had full representation, and we had a live quorum every day.

Now, after this long and diligent effort by the Labor Subcommittee and the Committee on Labor and Public Welfare, over a period of 2 months, we have brought the bill to the floor. There was great interest, and many amendments suggested, and we wanted to try to get these amendments going.

Mr. DIRKSEN. Yet, in line with what the distinguished Senator from Delaware has said, I came on the floor at 4 o'clock yesterday, and we had a hassle, wherein a great point was made of the fact that

my staff could not even obtain a copy of the bill. Finally someone went out somewhere, returned, and said, "Oh, there are copies around." Then I picked up the report that the majority Members could get copies, but minority Members could not.

I said, "We are not ready to consider the bill," and suggested to the distinguished majority leader that they call up the Oregon dunes bill.

The distinguished Senator who is so unalterably opposed to the Oregon dunes bill was not, evidently, ready to have it called up, although another Senator from the great Commonwealth of Oregon was more than delighted to have it come up forthwith.

So we left the minimum wage bill in place and tried to work it out. We were sparring in order to try to find some time to look at the bill. I had a chance to look at it as I came into town from where I live, but I did not have a copy of the report and have not seen the report yet.

Mr. YARBOROUGH. Mr. President, I thank the distinguished minority leader for cooperating with the majority leader. They have agreed that we may have votes today. I think I may advise the distinguished minority leader that copies of the bill were in the portfolio of the distinguished Senator from New York [Mr. JAVITS], the ranking minority member of the committee, and that copies were distributed at that time. The minority leader stated that at 4 o'clock only a few Senators had copies, but counsel for the able Senator from New York [Mr. JAVITS] had a sizable number of copies.

Mr. DIRKSEN. We did not know where to get them.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The bill is open to amendment.

Mr. JAVITS. Mr. President, I call up my amendment No. 760 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

TITLE VIII—STUDY OF EMERGENCY STRIKE LAWS

SEC. 801. The Secretary of Labor is hereby directed to commence immediately a complete study of the operations and adequacy of the emergency labor disputes provisions of the Railway Labor Act and the Labor-Management Relations Act. The Secretary is further instructed to report to the Congress by January 15, 1967, the findings of such study together with appropriate recommendations for such amendments to the Railway Labor Act and the Labor-Management Relations Act as will provide improved permanent procedures for the settlement of emergency labor disputes.

Mr. JAVITS. Mr. President, I have the honor to ask unanimous consent that the distinguished Senator from Oregon [Mr. MORSE] may be joined with me in offering the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, the Senate will recall that when the airlines labor dispute bill was before the Senate, we spent, in the course of the debate, a great deal of time on the fact that there

was not a remedy at law to which the President could resort in the circumstances we then faced, but that we had to provide an ad hoc remedy in the face of an emergency.

It will be remembered that we ran into the same situation in the threatened strike of the locomotive enginemen and firemen a few years ago. At that time, too, the Nation faced an emergency overnight, and Congress resorted finally to what it did not call, but what was tantamount to, compulsory arbitration—an action that made most of us very unhappy, because I and many other Senators are against compulsory arbitration as a national policy, and have been for years.

In this particular situation the joint resolution we finally agreed to by using, through the great resourcefulness of the senior Senator from Oregon [Mr. MORSE], the existing techniques of the Railway Labor Act, would have made us responsible as a matter of law for calling the men back for 30 days. This would be again a most distasteful operation as far as the Senator from Oregon and I are concerned. I am sure that it would be distasteful to practically every other Senator.

Having run into that situation at the national level on two successive occasions, the senior Senator from Oregon and I put our heads together to see whether, at long last, the administration could be brought to the point of meeting what we consider to be its responsibility in making some recommendations on this score to us.

Various bills have been introduced. The senior Senator from Ohio [Mr. LAUSCHE] has a bill which would provide for compulsory arbitration in disputes of this character. I have introduced a bill which would apply the technique of receivership through the Federal courts and operation of the struck facilities to the limited extent required by the public health and safety under Federal receivership.

Other Senators have other ideas concerning a solution to this problem. The upshot was that we did not feel we could, with the time now available for testimony in this session of Congress, come to a choice among the various means of solving the problem.

The administration is really under a duty to give us its views as to how it feels about the matter.

Based on our mutual judgment, we offered an amendment which was incorporated in the airlines strike legislation passed by the Senate. Whatever may have been the controversy engendered on both sides, there was no controversy on this section. It seemed to be universally approved. My soundings in the other body indicate that there was rather universal approval there as well.

This amendment to the bill is offered for the reason that this is perhaps the only bill from the Labor Subcommittee of the Committee on Labor and Public Welfare that we will have the opportunity to deal with at this session of Congress.

It seems to me, therefore, that this is an opportunity to do something constructive—something which is pretty

generally agreed to and which can be incorporated in the pending bill.

I would state as one of the conferees, and I undoubtedly will be, if the manager of the bill runs into any trouble with this particular section—if he should agree to accept it, and I hope he will—I would be the first not to let such trouble interfere with the passage of the minimum wage law.

I rather hope, under the circumstances—as everybody pretty well agrees that this is the right thing to do and that this is the vehicle through which we can do it—that we can agree to take the amendment to conference.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MORSE. Mr. President, I am pleased to join with the senior Senator from New York in offering the amendment.

It does not deal with minimum wages directly, but I think the next to the last point the senior Senator from New York made should be controlling.

I do not think that we have any other vehicle by which we can get this matter before Congress. We certainly do not have to hold hearings on the question of whether the Secretary of Labor should be instructed to study the problem of labor legislation to handle emergency disputes and, in effect, that is all that this amendment would do.

I recall the position that the President took in his state of the Union message, in which there was a promise from the administration that it was going to submit legislation in this field.

Congress has a clear obligation now to make perfectly clear to the administration that it has an interest in having such legislation submitted. However, what we are saying to the administration, in effect, is: "We think you ought to proceed with a study and have the results of the study available when we reconvene so that this can be interpreted."

In my judgment this amendment instructs the administration to proceed with a study to carry out a promise that the administration, in effect, made last January.

I endorse the amendment. I have served on the committee with the senior Senator from New York. I hope that my friend, the very able chairman of the committee, will agree to take the amendment to conference.

Mr. JAVITS. Mr. President, I repeat again that I assure the Senator from Texas, should this represent any block in getting the minimum wage bill through because the other body might object to something contained in it, I would be the first to join in taking the amendment out of the bill.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. JAVITS. I shall yield first to the senior Senator from Ohio.

Mr. LAUSCHE. Mr. President, during the discussion of the bill on the airlines strike, statements were repeatedly made that we should do something to provide an improved, permanent remedy for the solution of threatened strikes that affect

the national interests. My judgment is that the passing away of the airlines strike should not lull us into a state of inactivity. The repeated threat of the type of problems that confronted us in the airlines strike will be with us in the future. In my judgment, it would be a mistake to fail to act in advance of the emergencies that might occur.

The amendment offered by the senior Senator from New York [Mr. JAVITS] merely requests that the Secretary of Labor is directed to commence immediately a complete study of the operations and adequacy of the emergency labor dispute provisions of the Railway Labor Act.

That is one of the pointed issues that we had before us.

I think this is a sound amendment. It ought to be accepted by the manager of the bill.

Mr. JAVITS. Mr. President, I thank my friend, the senior Senator from Ohio, very much for his support. He has been one of the leaders in this effort and has introduced a bill, to which I referred.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. JAVITS. Mr. President, I yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I wholly support the amendment offered by the senior Senator from New York, and its purpose.

It has been more than 8 months now since the President said that he was going to send up recommendations on this very subject. Congress has not received, to the best of my knowledge, even one postcard from the President on this particular subject. I suspect that we will not get any unless we force it by some direction and legislation.

I hope that we will keep this provision in the bill when it comes to conference and that the conferees really fight for its retention.

It seems to me that if we do not get any kind of a definitive recommendation from the administration, or from the Secretary of Labor, by January 15 or earlier, Congress itself should, through its Committee on Labor and Public Welfare, initiate a study of the procedures which it thinks could handle this type of problem in which the public interest is so definitely involved.

So I urge not only that this amendment be adopted, but that we also preplan some hearings next year at the latest, so that we can go forward on suggestions of our own in the event the suggestions from the Secretary of Labor do not materialize.

Mr. JAVITS. I say to my colleague, the Senator from Colorado, that should, happily, this provision survive the legislative process—and I rather hope and believe that it will, because of the feeling for it which the Senator has so eloquently expressed—it will give us a proper basis for action. Not only is the Secretary asked to give us a report of his recommendations, but he is also asked to make a study of the past, as to how this has operated. Hence, we will have the great benefit of a really basic document upon which hearings can be intelligently held.

I thank my colleague very much.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. COOPER. I ask the Senator from New York whether the Secretary of Labor, in his testimony before the Committee on Labor and Public Welfare, in testifying on this bill—or, more particularly, upon the bill which was reported to deal with the airline strike—indicated whether or not he is making any study of the issue which is presented in this amendment.

Mr. JAVITS. We questioned him on that subject, and he said he was giving the matter thought and inquiry. As a matter of fact—I am drawing on my recollection—I think he expressed no feeling at all, but that this was quite proper, and he would be ready to respond in accordance with our request.

I should like to say to the Senator from Kentucky and the Senator from Colorado that I really do not consider this putting any pressure on the administration. With respect to the airline strike, we, in this body, discussed a shared partnership, as it was so often referred to, and the administration is very diffident about proceeding along this line, but it will proceed if we move, too. And in this way we are moving, too. We are saying, "Let us have it." And I have no doubt that we will get it, and everything the Secretary said would bear that out.

Mr. COOPER. I certainly think that this amendment should be adopted, and it should be maintained in conference; because if it is maintained in conference, it would at least express the sense of Congress that this study is necessary and that some action is necessary.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MORSE. May I say to the Senator from Kentucky, that the position of the Secretary of Labor before the Committee on Labor and Public Welfare, during our discussion of proposed legislation dealing with the airlines strike, can best and fairly be described as an attitude of not wishing to make any commitments whatsoever as to future plans of the Secretary or of the administration in this field.

It was understandable, for their position was pretty much that of a parliamentary eunuch. They were not for legislation, and they were not against legislation. I thought they were quite sterile in the field.

The purpose of this amendment is for Congress to express legislative right. We cannot make them make recommendations to us. But if we respectfully, as this amendment does, request them to make recommendations and they do not, then it becomes the clear duty of Congress to go ahead and legislate in accordance with its best wisdom. That would not produce the most cooperative relationship, I should think, between the executive and the legislative branches.

My motivation in so far as this amendment is concerned—and I have a right to speak of its motivation, because I joined the Senator from New York when

it was offered in connection with the airline strike—and I know it is also the motivation of the Senator from New York—is to make perfectly clear to the administration that we stand in a cooperative willingness to work with them in trying to develop the best legislation that can be developed.

If they do not want to cooperate, they will not carry out the requests of this amendment. But then, come January, there is no doubt, in my judgment, about what Congress will be faced with: It will have to pass legislation then of its own making.

Mr. JAVITS. Perhaps it will be of enlightenment to Senators if I read the President's answer at a press conference on July 20, 1966, when this controversy was raging. He was asked about the statement in his state of the Union message in January, to which Senator MORSE referred, as to this legislation, and he said:

I must frankly say to you that up until this point we have been unsuccessful in getting legislation that the Secretary of Labor and the other members of my Cabinet felt acceptable and that we felt would have any chance of passage in the Congress.

We are still searching for the answer, and we would like to find a solution that could be embraced by the administration, management, labor, and the Congress. Up to this point we have not been very successful.

I cite that only to underline the point that there is no dearth of thinking, investigation, and inquiry about this matter.

I am sure that they have their report all written as to what has happened. They probably do not have their recommendation, and that is exactly why this amendment is offered. We want to bring them to the point where they will have to think in concrete terms and be of some aid to us in that regard.

I hope very much that, under the circumstances I have referred to, the manager of the bill might be willing to take this amendment to conference.

(At this point Mr. TYDINGS assumed the chair as the Presiding Officer.)

Mr. YARBOROUGH. Mr. President, the amendment proposed by the distinguished senior Senator from New York drags a new subject matter into the Fair Labor Standards Act of 1938, which proposes to raise the minimum wages for American workers and to bring within the protection of this law 7,200,000 workers not now protected by minimum wages. It would drag in a new subject matter—amendment of the Railway Labor Act and the Labor-Management Relations Act.

If the Senate had the rules of germaneness that exist in the House, the amendment would go out on the basis of germaneness. It is not germane. We are dealing here simply with an amendment to the Fair Labor Standards Act. The proposed amendment deals with the Railway Labor Act and the Labor-Management Relations Act, dealing with labor disputes. The amendment drags up the airline labor dispute again.

From the statements that we have heard about the President's recommendations, it is patent that this amendment deals with something wholly outside the

realm of the legislation now pending before the Senate.

The President's Labor-Management Advisory Council has made recommendations in the field of labor-management relations in the settlement of emergency labor disputes.

As indicated by the Senator from New York, the President indicated in his press conference that the various department heads studying the problem had not as yet reached an agreement.

The proposed amendment directs the Secretary of Labor to commence immediately a complete study of the operations and adequacy of the emergency labor disputes provisions of the Railway Labor Act, which is not involved in the bill pending before the Senate, and the Labor-Management Relations Act, which is not involved in the bill pending before the Senate.

The proposed amendment would further instruct the Secretary to report back next year with appropriate recommendations for such amendments to the Railway Labor Act and the Labor-Management Relations Act. It does not direct him to report back proposed amendments to this law, but rather, recommendations in connection with other laws "as will provide improved permanent procedures for the settlement of emergency labor disputes," which brings up the whole question of compulsory arbitration and free collective bargaining.

Those are subjects with which we are not concerned in this bill. I oppose the amendment because of the utterly unrelated matter that it injects into the act that we are considering now. It is irrelevant to this proposal, unconnected and unrelated.

Mr. JAVITS. Mr. President, I think that I have covered the entire subject, as referred to by the Senator from Texas [Mr. YARBOROUGH], in the presentation of the amendment. The amendment is not entirely unrelated. I cannot agree to that.

This is a labor bill dealing with the terms and conditions and compensation of employees. It has many provisions with respect to overtime which relate to unionized employees, bus workers, and many other types of employees. The union collective bargaining problems are very real with regard to the bill.

But I would not pretend for a moment that this particular amendment which I propose to add is directly germane to the matter of minimum wages. It has a relevance to the labor picture, which is also dealt with in the bill.

I said clearly when I started that this is probably the only labor bill that will be passed this year and, hence, we are suggesting that it be used as a vehicle for something which seems to be generally agreed in both bodies of the Congress. It follows on the heels of an effort to do the same thing in the Senate, in the airlines strike bill, but it was aborted because the legislation was deemed to be not necessary in the House of Representatives.

I stated for myself that if it should appear in conference that this title would in any way interfere with the adoption

of the minimum wage bill, I would be the first not to let it stand in the way.

Under those circumstances, it seems to me that what we are doing is entirely proper. This is not at all unusual in this body. We have done this time and again with bills that go to various committees to get a particular measure taken care of before Congress adjourns for the year.

The Senator from Texas [Mr. YARBOROUGH] is being incongruous. As I remember, he sought to override his own GI bill of rights, which was an excellent piece of legislation, by an amendment on the most ungermane piece of legislation which possibly could have been attached. I did not object. No one else objected. We are accustomed to that in this body. Hence, I think that this objection is not an appropriate one in a matter of this kind where time is of the essence. If we let the situation go now, another year will pass and we will have another emergency. For example, American Airlines is on a standby order now until September 28. Again, we are dealing with a big segment of the air transportation industry. Let us get something started to get out of this cul de sac in which we are lodged.

As I have said, this should not be allowed to interfere with the minimum wage bill. I will move heaven and earth to see that it does not.

I can see the validity of the objection. The Senator is proper in making his objection if he does not wish to take the amendment, and we will have to have the Senate decide the matter.

Mr. MORSE. Mr. President, legislation by way of nongermane amendments in the Senate has become a very germane procedure of legislating in the Senate. We do it over and over again. Of course, it would be very helpful to have this amendment adopted by the Senate and sent to conference, because it would be a very respectful notice sent to the administration that we think it has a clear obligation to make its recommendations by January to the Congress as to what, if anything, it proposes to do about the legislation for the handling of emergency disputes when those disputes arise, either under the jurisdiction of the Taft-Hartley Act or the Railway Labor Act.

I very well understand the position of the Senator from Texas [Mr. YARBOROUGH]. I have stood in his place as the floor manager of a bill many times and made the same sort of argument which he has made in opposition to this amendment as floor manager of the bill.

But the responsibility rests not on the floor manager of the bill but on the Senate as a whole, and I think this amendment should go to a vote.

Mr. President, if there are sufficient Senators to request a rollcall vote, I call for it.

Mr. President, I ask for the yeas and nays on the amendment.

Mr. YARBOROUGH. Mr. President, will the Senator withhold that request and yield to me?

Mr. MORSE. I believe that the Senator from New York [Mr. JAVITS] has the floor.

Mr. JAVITS. I yield.

Mr. YARBOROUGH. We have just had a very reassuring statement by the Senator from New York [Mr. JAVITS] that if we would accept the amendment, that he, as the ranking minority member on the committee and one who is certain to be on the conference committee—as would the Senator from Oregon [Mr. MORSE]—would not let it stand in the way of a minimum wage bill if the House did not accept it.

If the distinguished Senator from Oregon [Mr. MORSE] makes the same assurance, as one of the leading conferees on the part of the Senate and the majority, we can take it to conference.

Mr. MORSE. I shall fight as hard as I can to get it accepted in conference. That is the only commitment I can make.

Mr. YARBOROUGH. I would like to ask the senior Senator from New York [Mr. JAVITS] if he speaks for the minority party.

Mr. JAVITS. No, I do not.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. JAVITS. Mr. President, I have the floor. I shall yield to the Senator, but first, I wish to finish my statement.

I think that my attitude is the same as that of the Senator from Oregon [Mr. MORSE], but I do not speak for him. I speak for myself.

I, too, will fight very hard, to the limit of my power, to get this accepted by the conference, but I will not allow the minimum wage bill to fall because of my devotion to the amendment, if that is the way it should develop. I would not wish to be responsible, by my devotion to the amendment, for the minimum wage bill not being enacted. That is the meaning of my intention, and I restate it. I cannot speak for the Senator, but I feel as the Senator from Oregon [Mr. MORSE] does. I will fight to the limit of my power.

Mr. MUSKIE. If the Senator reads the twinkle in the eyes of the Senator from Oregon [Mr. MORSE]—which will not appear in the RECORD—he will have all the assurance he needs.

Mr. MORSE. Do not be fooled by twinkle.

Mr. YARBOROUGH. My opposition to the amendment has been based on its lack of germaneness, but it is deeper. The amendment presupposes that we do need legislation in this field. We have had no testimony in this connection on the Fair Labor Standards Act. There has been no testimony whether an amendment is needed to the Railway Labor Act or the Labor-Management Relations Act. I personally am not willing to prejudge the matter and say that we need an amendment and we want the administration to tell us that.

I think this is a complicated field and I would not vote for any amendment until after there was a complete hearing and a showing as to what kind of amendments were needed. I think the field of free collective bargaining is one of the basic freedoms in our entire American free enterprise system.

On the assurance of the distinguished Senator from New York that he will lead the conference representing his party,

and that he will not, so far as he is personally concerned, let an amendment which is on an unrelated and ungermane subject stand in the way of a minimum wage bill, I will agree to take it to conference.

The PRESIDING OFFICER (Mr. TYDINGS in the chair). The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. MORSE. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 8989) to promote health and safety in metal and nonmetallic mineral industries, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. POWELL, Mr. HOLLAND, Mr. DENT, Mr. PUCINSKI, Mr. DANIELS, Mr. O'HARA of Michigan, Mr. AYRES, Mr. QUIE, and Mr. ASHBROOK were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 13448) to amend title 39, United States Code, with respect to mailing privileges of members of the U.S. Armed Forces and other Federal Government personnel overseas, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MORRISON, Mr. DULSKI, and Mr. CORBETT were appointed managers on the part of the House at the conference.

FEDERAL METAL AND NONMETALLIC MINE SAFETY ACT

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the State to the bill (H.R. 8989) to promote health and safety in metal and nonmetallic mineral industries, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. YARBOROUGH. I move that the Senate insist upon its amendment, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. YARBOROUGH, Mr. MORSE, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. KENNEDY of New York, Mr. JAVITS, Mr. PROUTY, and Mr. FANNIN conferees on the part of the Senate.

CWA-WESTERN ELECTRIC LABOR NEGOTIATIONS

Mr. JAVITS. Mr. President, recently, we have heard widespread complaints that the American system of collective bargaining between labor and management has become an inefficient process and that, as a result, the American public has been subject, if not to actual hardship, then to considerable inconvenience.

For that reason, I find it all the more significant that in the telephone industry there appears to be a most determined effort to make collective bargaining work.

I refer specifically to negotiations between the Communications Workers of America and the management of the Western Electric Co., concerning the wages, benefits, and working conditions of approximately 23,000 employees in the company's installation division.

I have no inside information as to the progress of those negotiations. Quite properly, as befits the collective bargaining process, they are being conducted in the privacy of the conference room. But it is impressive that, after preliminary sparring, the two sides are bargaining and making offers and counter-offers.

For such a key industry, and one as sensitive as the telephone industry, collective bargaining has been a difficult and complex matter this year. The guidelines set forth by the President's Council of Economic Advisers established the figure of 3.2 percent for wage and fringe increases. The premise of the guidelines, however, was that they would be even-handed, applying equally both to wages and to prices, so that, to the extent that labor's wage increases conformed to the guidelines, labor would receive the benefits of a stable economy without inflationary increases in the cost of living. The absence of any coherent and successful Government policy protecting the value of labor's earned dollars, however, requires a new look at these guidelines; for, in many cases, prices have soared, yet labor is asked to accept the full burden of the guidelines while not receiving the benefits which they were intended to provide.

The sincere effort to make collective bargaining work has been manifest in the attitude of the parties so far. The union, for instance, ordered a vote among its members at Western Electric on the question of a strike. Meanwhile, even though the vote was called for, the union continued to talk with the company. Even after the strike vote showed a 7-to-1 majority, the officials of the CWA continued their efforts to come to an agreement with the company. These efforts are continuing right now.

Nor, for that matter, was the 3.2-percent figure intended to be an absolute

ceiling on wage and fringe benefits everywhere. The leaders of CWA have argued, with firmness but with patience, that the guidelines were never intended to become a tightwire to which all increases, regardless of circumstances, must conform. Even the guidelines, as formulated by the Administration, provide for exceptions.

I do not mean to say that arguments based upon the guidelines are not a proper subject for the bargaining table. Indeed, I feel strongly that they are.

None of us wants runaway inflation, and I have little doubt that that is as true of the men at Western Electric in the CWA, and the Western Electric Co. itself, as it is of the rest of us. But it is difficult to believe that reasonable wage adjustments for highly skilled workmen and technicians within the confines of give and take in collective bargaining is likely to contribute very seriously to an inflationary picture.

I rather hope that the wages in this highly complex industry would not be allowed to cause an erosion of the manpower supply in those industries, with serious implications for our national ability to maintain a communications system operating at top efficiency in a period of national stress.

Let me express the expectation that the guidelines will be constantly before the parties, and also the expectation that they will find a way in which to resolve their differences so that we will not have reports in this field of grave problems arising which have just been surmounted in the airlines field.

I am therefore glad to report to the Senate that the CWA, who justifiably take pride in their reputation as a responsible community minded union, is continuing to negotiate with a responsible management like that at Western Electric.

We do not yet know where the negotiations are going, but I appreciate the spirit of responsibility which has been manifested by both sides.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TO PRINT ADDITIONAL COPIES OF HEARINGS—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from North Carolina [Mr. JORDAN], I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 90) to authorize printing of additional hearings. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

I hope that, before Congress recesses for the Labor Day weekend, President Johnson will submit a forthright program of coordinated action to bring down the high interest rates that prevail today and to curb the rising cost of living.

FAIR LABOR STANDARDS AMENDMENTS OF 1966

The Senate resumed the consideration of the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

The PRESIDING OFFICER (Mr. KENNEDY of Massachusetts in the chair). The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follow:

On page 49, lines 14 and 15, strike out "(other than partsman) or mechanic" and insert in lieu thereof the words ", partsman, or mechanic,".

On page 49, line 16, insert after the word "aircraft" the words ", or parts of any of the foregoing,".

Mr. BAYH. Mr. President, the sole purpose of this amendment is to restore the overtime exemption, provided in the bill as adopted by the House of Representatives, for partsmen employed by automobile, trailer, truck or farm implement dealers. As passed by the House the bill exempted from the overtime requirement not only salesmen and mechanics but also partsmen employed in these establishments.

The Senate Committee on Labor and Public Welfare, for reasons which do not seem to me to be sound, has recommended eliminating partsmen from this exemption. I am firmly convinced that it would be neither fair nor justifiable to treat the occupation of partsman differently than that of salesman or mechanic for these particular purposes.

Because of the nature of these three occupations, it has been traditional for Congress to recognize that the ordinary regulations pertaining to payment for overtime work should not prevail. The House of Representatives recognized this fact and voted to continue in force the historic exemption of these three kinds of jobs from overtime provisions. There does not appear to be any meaningful reason why this practice should be terminated, especially why only one of the three occupations should be selected for treatment different than the other two.

Perhaps it would be helpful to make clear the type of work performed by the partsman and the effect which the proposed change might have on various business establishments. The partsman classifies, shelves and dispenses parts used by mechanics and sold to customers who come into establishments to make purchases. In many instances it is essential that partsmen work longer hours or at other than regular times. This is especially true in the farm equipment business where farmers, during planting,

cultivating and harvesting seasons, may call on their dealers for parts at any time during the day or evening and on weekends. The result is that partsmen during some weeks of the year may work longer hours and on an irregular schedule.

This is particularly true in the experience I have had in the field. It is my understanding that on the average farm implement dealers, for example, will employ two or three partsmen. Most of them are employed on a year around basis. They are well trained and usually adequately reimbursed, frequently on a salary plus commission or bonus basis. In the farm implement business it is often difficult to keep partsmen on a regular time schedule because of the seasonal nature of farming and the effect which cold or bad weather may have on equipment maintenance. Because of these factors, it would not be easy to place partsmen on a time-clock basis and to compute overtime compensation in an equitable manner.

By way of illustrating this problem, let me cite certain situations in my State of Indiana which have been brought to my attention. The six examples which I will describe were selected at random from various sections of the State and present information about the employment situation of different farm equipment dealers and the effect a change in the overtime exemption would have.

First. Princeton, Ind.: Dealer with 13 employees, 7 of whom are mechanics and 2 are partsmen. One partsman received a guarantee of \$96 per week plus a bonus on sales by the parts department, which last year averaged out to an additional \$30 per week. The second partsman received a weekly salary of \$80 and earned a bonus of some \$20 a week extra. They each averaged about 48 hours of work per week, but during bad weather or out of season they worked short weeks and were able to take time off. During peak seasons they worked longer hours and were on call for evenings and weekends when parts were needed by farmer.

Second. Lebanon, Ind.: Dealer with five full-time and seven part-time employees. One full-time employee was a partsman who received \$90 per week salary the year round plus a bonus on sales averaging about \$25 per week. He worked on the average 40 hours per week in the winter and 48 in the summer.

Third. New Castle, Ind.: Dealer with five employees, three of whom were mechanics and one a partsman. The partsman received a salary of \$100 per week the year around plus a bonus averaging \$25 per week. It is estimated that this partsman averaged 50 hours per week of work, but he is considered a part of management and allotted his time as he wished.

Fourth. Madison, Ind.: Dealer with eight employees, four of whom are mechanics and one a partsman. The partsman has a basic work week of 48 hours, but it varies according to seasons. He received an \$80 a week guaranteed wage plus a bonus on parts sales which averaged \$30 per week last year.

Fifth. Washington, Ind.: Dealer with seven full-time employees and two part-time employees, four of whom are mechanics and a partsman. The partsman

received \$85 per week plus a bonus on sales which averaged \$20 per week. He worked an average of 48 hours per week, but is varied widely week to week.

Sixth. Greenfield, Ind.: Dealer with 10 employees, 6 of whom are mechanics and 1 is a partsman. The latter received a flat salary of \$125 per week, but he is also considered a part of management and operates on a profit-sharing plan through which he eventually plans to acquire the business.

These six examples are typical of farm equipment dealers in my State. It appears obvious that it would be impracticable to attempt to apply the standard overtime procedures to these employees. Moreover, to single them out for treatment different than that historically accorded to salesmen and mechanics would be patently unfair.

For these reasons in this amendment we seek to restore partsmen to the same capacity as salesmen and mechanics, as contained in the original bill which was passed by the House. There is no question about the irregularity of the need for parts when one looks at the agricultural industry. Also, it should be pointed out that many partsmen with whom I have talked and discussed the matter say that in the case of implement dealers many partsmen are on what is called a cost-bonus basis where they get a percentage of the cost of parts they sell in addition to a regular salary.

In addition, in closing I wish to point out that we are only talking about an overtime provision. The partsmen, as well as the mechanics, would be covered by the minimum wage provision. We merely seek to include them in the exemption with mechanics and salesmen from the overtime provisions of the bill.

Mr. HRUSKA. Mr. President, I rise in support of the amendment which has been so well stated by the Senator from Indiana [Mr. BAYH]. I am pleased to be a cosponsor of the amendment. The other body saw fit, and properly so, to include partsmen as well as salesmen and mechanics employed by automobile, trailer, truck or farm equipment dealers in the exemption from the overtime requirements of H.R. 13712. This action was logical and consistent.

The Senate Labor and Public Welfare Committee has seen fit to delete these partsmen from the exemption. One of the reasons given at page 15 of the Senate report was that it was done in fairness to the wholesaler's distributors who have no minimum wage or overtime exemption.

It is difficult to see the consistency in this type of argument. Why pick on the partsman? Why not the mechanic or the salesman? Is the nature of their duties so different in terms of working hours or job requirements that they must be treated differently? The answer is "No."

The only sound and consistent procedure would be to include partsmen under the exemption. The partsman, as well as the mechanic and salesman of farm implement dealers, for example, are subject to substantial seasonal variations in business. They must serve the farmer when the farmer needs them.

The nature of the job of the partsman was described by Charles R. Frederick in the hearings on the Senate bill last year. At page 807 of part 2 of the hearings he points out the difficulties faced if the partsman were excluded from the overtime exemption. The exact situation referred to is:

How should time be calculated when a partsman, responding to an emergency call of a farmer for a badly needed part, goes to the store for that sole purpose?

In the same statement at page 803, the requirements of a partsman's job are highlighted. If a farmer needs a part to finish harvesting a crop and it is late at night or on Sunday, should he wait, and risk spoilage of his crop? He cannot and he does not. He calls the partsman and he gets his part to continue the work.

Are we going to say to the farmer who needs a part at night or on Sunday: You cannot get a spark plug, or a bell, or a gear, or some other item needed for your machinery, because the partsman is not exempt, but you can have machinery repaired by a mechanic who is exempt, and you can buy a new tractor from a salesman who is exempt? That is what we are telling farmers, servicemen, and farm equipment and implement dealers to do.

The services demanded by the farmer encompass the entire range of employees in a retail or service establishment. It is as Mr. Frederick points out, "not practically possible for dealers to operate within the framework of a 40-hour week." Since this is applicable to a dealer's salesmen and mechanics, it is just as applicable to his partsmen. The nature of all three jobs require that they be treated equally. There appears no sound reason to single out the partsman for separate treatment.

As I understand, more than half of the employees, in fact 70 percent in the average dealerships, are engaged in the operations of the service shop and the parts department. Both departments require men who are thoroughly trained. Parts-men handle many different parts. They are responsible for the stock, including prompt identification and continuance of supply. There are very few trained partsmen from which dealers can draw. This is the reason why most farm equipment dealers hire and pay their employees on a year-around basis. The dealer cannot depend on being able to secure trained men in a peak season if he does not continue to pay them during the slow season.

It is interesting to read part of the testimony of Mr. Frederick concerning the type of arrangement that dealers have consistently followed throughout the years in the matter of acquiring and retaining the partsmen that they need. Mr. Frederick stated:

A very recent survey indicates that 92 percent of the employees are employed year-around. Employees also receive many fringe benefits. The same survey shows that 98 percent are given paid vacations; 87 percent are paid while on sick leave; 95 percent have accident and health and life insurance, paid in whole or in part by dealers. Additional fringe benefits common in the industry are uniforms for shop and parts personnel, use

of trucks for personal business, purchasing discounts, and extra time off for personal business. A substantial number of dealers offer additional incentives such as profit-sharing plans and year-end bonuses.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. BAYH. I compliment the Senator from Nebraska [Mr. Hruska] for making that point, because I think that this goes to show that partsmen are receiving a fair shake and a square deal—if I may use that expression—as far as overall compensation is concerned.

I refer to the fact that this was the result of a survey we conducted of establishments in Indiana. I went over examples and I found bonuses and increased salaries based on sales ranging from a 25-percent to a 46-percent increase above the normal salary. I do wish to inject that.

Mr. HRUSKA. I thank the Senator. His observation is pertinent. If one were to get into the spirit of the times because of seasonal demands on partsmen he would see the situation at first-hand.

In my State, where we have sugarbeets, a campaign is undertaken to harvest them. The entire community enters into the spirit of the occasion. They all realize that this is their payoff. The same is true in the potato business. When they dig potatoes, they have a campaign. The towns ring bells and blow whistles; the chamber of commerce holds a luncheon to kick off the effort. That spirit is maintained until the crop is safely harvested. Under these circumstances, of course, everyone has an interest in the spirit of the occasion. But there are many times during the year when this is not necessary, and compensating features are brought into the picture by the employer.

In other words, they have arrived at a way of doing business, such referred to in the excerpts just read. They have done it in such a way that everyone is happy. Everyone is served. They are doing the job. But now the Federal Government is going to enter the picture and to say, "You cannot do it that way. We are going to disrupt this method."

The Federal Government will be throwing sticks and stones in the way of an industry which cannot control the timing of production, an industry which cannot defer its deadlines on harvesting a crop. I believe that the Senate would be doing a service to the hard-pressed farm industry, and to the farm economy in general, if it would restore to the partsman the exemption which he enjoyed in the House-passed version of H.R. 13712.

Mr. MANSFIELD. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I yield.

Mr. MANSFIELD. Let me say that the same happenings occur in my part of the country. The partsman does occupy a significant and unusual position in the agricultural economy. He has to be available during the harvesting season—and before and after, to a lesser extent—at all hours of the day. Farmers during

this harvesting season cannot wait for the regular kind of service; the partsman is an essential link in this special service.

I hope that the amendment will carry, because I believe it is worth while; it is also very much needed in the State of Montana.

Mr. BAYH. We have pointed out the discrepancy between the way we treat the mechanic and the way we treat the partsman. This has brought demands as to why the mechanic could not provide the service of securing the parts.

I do not think that anyone who has had the experience I have had in the rural areas, in this day and age, on the farm, realizes the degree of sophistication which is now being built into farm machinery. It is no longer a double shovel and a mule pulling the workload in the fields. It is very complicated farm machinery that the farmer uses today. Sometimes, an infinitesimally small difference between parts can determine whether a machine will work or not. Therefore, the knowledge and ability of the trained partsman is very much in demand. I can see a real controversy arising in any specific job where I am out combining late at night, say, or corn-picking, and my machine breaks down. If I have to get the partsman back on the job—and he does not get overtime—and he cannot get back to the shop in time, but the mechanic does—or the partsman does but the mechanic whom he represents does not—there will be controversy within the specific implement dealer's shop unless both these men are treated the same, as they have been historically.

I thank the Senator for yielding to me.

Mr. HRUSKA. Mr. President, I yield the floor.

Mr. YARBOROUGH. Mr. President, I think there is a great deal of misunderstanding about this amendment. I should like to explain briefly what is involved.

Under present law, dealers in parts have to pay overtime. They were placed under the law at a prior date, but not the agents or those selling automobiles at retail were given an exemption under prior law.

In the past 5 years since, the independent automobile parts dealer along main street in every town and village in America has had to pay overtime to his employees who sell parts. The automobile dealer down the street does not. The automobile dealer is, therefore, at a great competitive advantage over the independent store owner, or the hardware store owner who sells parts.

Thus, this amendment would provide that the man who retails parts in an automobile dealership shall be under the same law as his independent competitor across the street in a store which sells automobile or farm parts.

Complaint is made that the mechanics are excluded, that they do not have to be paid overtime. The purpose of the amendment is to help the very people it purports to help. We wish to bring under overtime only those clerks in the dealerships who are selling parts in competition with the other stores in town up and down the street.

General Motors, Chrysler, and Ford have expended great efforts in the parts departments of their auto dealerships in the past 5 years. They are sometimes said to be squeezing the little partsman out of business.

This amendment would try to restore the independent merchant to a competitive advantage. It would not affect the salesman. He can go out and sell an Oldsmobile, a Pontiac, or a Buick all day long and all night. He is not under any overtime.

The mechanic is not put on any overtime.

My experience with automobiles has been that the mechanic goes out and answers calls in the rural areas. It is not the partsman who goes out. The mechanic is not on any overtime. We have heard here of the partsman going out and repairing tractors and repairing automobiles. I say that the partsman does not go out and repair these cars and tractors. The mechanic does. The mechanic does. The mechanic is not on overtime. The committee should be commended for not putting them under overtime. We give no advantage to the store owner. We merely want to restore the position he was in, say, as the retailer, the man selling the parts over the counter here. I do not think that most of these partsmen work overtime, anyway.

When I go to an auto dealer along about 6 o'clock, the mechanics are there but the partsman has locked up his wire cage.

I say that Federal laws should not give one of them a competitive advantage over the other. This bill is merely for the enactment of a Federal law to be fair to the retailers and wholesalers selling parts, to treat all alike. Under the provisions of the law, we want to treat the retailer in that store alike.

Mr. BAYH. Perhaps the Senator from Texas has a different experience from mine. I have lived in a part of rural Indiana which did not have these factory owned parts establishments which the Senator is concerned about, saying that they do not compete against the small merchant. But I must say that I have been in an implement store, trying to get my tractor, combine, or corn-picker repaired, for which the mechanic could not find the necessary part; and he had to call the partsman, get him out of bed, and get him to come down to the store to show him which part should be used. Why should not the partsman be treated differently from a mechanic?

Mr. YARBOROUGH. From what the Senator is saying, if the mechanic does not know his job, or the partsman is part mechanic also, then he needs some further retraining. Of course, I admit that happens, sometimes. It can happen in any store, wherever the mechanic does not know what to do. I have gone into stores, such as Western Auto, and I have found the salesmen there sometimes knew more about what was needed to correct something wrong with my car than some mechanic.

Of course, that is not the purpose of the law. The purpose of the law is to give the mechanic freer range. If the mechanic does not know what parts are

needed to repair a car, then we need better trained mechanics. But that does not change this law. This law does not put them under that. The Federal law would merely try to treat everyone equally who was selling these parts.

That is all the amendment would do, equalize the competitive advantage and not say that the Federal law will make one man selling parts pay higher wages to his employees than his competitor across the street.

Mr. BAYH. It does not say that the partsman can come down to the shop with the mechanic and the same two men will get paid a different wage for finding a part. The mechanic gets paid for putting it in the tractor.

Mr. YARBOROUGH. Not unless he comes under a certain number of rules.

Mr. BAYH. The provision does not take effect unless that criteria is met.

Mr. YARBOROUGH. It takes effect only if there is overtime. Even the secretaries in the office would get overtime.

Mr. BAYH. There is no purpose in discussing this amendment unless we are talking about—

Mr. YARBOROUGH. Suppose we consider a dealer in a Pontiac dealership: the secretaries get overtime right now. The mechanics and the salesmen do not. They do not get overtime because their work is outside. Why should not the partsman, selling parts over the counter, in the shop of any average dealer—a shop with busy secretaries, and similar clerical workers, receive overtime? If they work overtime, they should receive overtime. The partsman, behind his wire cage, retailing his parts, does not get that overtime. We are trying to give these employees an opportunity to get that overtime.

The salesman is not always inside. The mechanic is not always inside in every retail store. He is not protected by Federal law. The law does not confer a competitive advantage or disadvantage on some mechanics. But, under the law now scheduled, unless we adopt this amendment, he will not have a competitive advantage, but one group of people selling parts will have an advantage over the other.

There are two kinds of treatment for people selling parts, depending upon the nature of the store selling them. If the amendment of the distinguished Senator from Indiana is adopted, all it would do would be to have Federal standards for men selling parts back of the counter in a dealership, and another standard if it is an independent parts store.

I just do not think we should create a law which gives one group the power to benefit at the expense of another. The purpose of the measure is to treat employers and employees equally. This might be called an employers amendment, an attempt to try to treat them equally. Contrary to the charges that have been made, we have considered employers as well as employees. We wanted the employers to prosper.

We did not put this measure in the bill for people selling parts. That is in the law. All we are doing is trying to give one group the same competitive advantage the other has. The amendment of

the Senator from Indiana would give one group dealing in parts an advantage over another group.

Reference was made to the man who has to go out on the snow-covered field and furnish the part for a tractor. I lived in a rural area until I was 24 years of age. I go back there. I have always thought that it was the mechanic who generally knows the part to ask for that fits into a particular tractor, in view of the different models that exist. It is not the partsman that is the specialist at all; it is the mechanic generally who knows what part to use. He generally tells the partsman that he needs a certain part, for example, to repair a Buick, 1957 model. He does not need to ask the partsman; generally, he knows the part that is needed. The partsman is a retail clerk. He is not a specialist. The mechanic is the specialist. If the partsman were the specialist, he would be drawing more money than the mechanic. The mechanic gets paid more than the partsman. The partsman works inside. He hands parts out over the counter. All we do is leave retail clerks in an equal position or advantage. That is what the provision is designed to do.

Mr. BAYH. Mr. President, if I may have another word, I respectfully suggest to my friend from Texas that, the way he describes the competency or qualification of the partsman, it seems strange to me that we even have a category of "partsman." It was not in this Congress or by this committee or by the Senator from Texas or others of us that this distinction was made, and it is traditional that we have exempted partsmen, mechanics, and salesmen. Salesmen are a little different breed of cats, because they go out at unusual hours, trying to earn commissions. But I see no reason why, after historically we have put them together, we now say, "You are a mere partsman. You are going to be treated differently from the mechanic." It seems to me, rather than treating them the same, we are treating the partsman differently from the way he and the mechanics have been treated equally since we have had this legislation.

Mr. YARBOROUGH. The answer is that a partsman is an inside man. The reason for exempting the salesman and the mechanics was the difficulty of their keeping regular hours. The salesman tries to get people mainly after their hours of work. In some cases a man will leave his job, get his wife, and go to look at automobiles. So the hours of a salesman are different. The partsman is basically an inside man. The salesman has been referred to as an inside man.

We are not trying to downgrade the knowledge of the partsman. He must have knowledge, just as the clerk who works in a hardware store must know what is sold. If he had no knowledge, he would not know the difference between a sixpenny nail and a twentypenny nail. In dealing with nuts and bolts and different parts that go into automobiles, surely it takes people with knowledge of those parts. Those people have to have experience. Those who work in retail stores, who sell piece goods to ladies, selling different kinds of cloth, must have

specialized knowledge. This provision does not downgrade the partsman. The purpose of the measure was not to give one employer or employee an economic advantage over what his competitor down the street might have, but to treat all of them alike. It was not an attempt to downgrade the knowledge of one particular group, but the attempt was to treat the two groups of specialists alike, because if one was called a dealer, he would be exempt, and another who was called a retailer would not come under the exemption. This provision is to treat the partsmen and retail clerks alike under the law.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield.

Mr. CLARK. I should like to ask the Senator from Texas a couple of questions. I am a member of the full committee, but not of the subcommittee. Personally, I have followed the lead of the Senator from Texas, who is the expert in our committee, in this extremely technical legislation. As I understand it, mechanics, salesmen, and partsmen were all brought under the law—

Mr. YARBOROUGH. We are dealing with overtime.

Mr. CLARK. I understand, but I would like to get the philosophy of this matter. Under the administration's proposal, mechanics, salesmen, and partsmen were all brought in for the first time under this minimum wage law.

Mr. YARBOROUGH. That is right.

Mr. CLARK. This is an extension of coverage which, in my opinion, was long overdue. Is that correct?

Mr. YARBOROUGH. It was.

Mr. CLARK. This portion of the persons proposed to be brought under the minimum wage law was opposed by the automobile lobby. Is that correct?

Mr. YARBOROUGH. That is correct.

Mr. CLARK. In effect, the House yielded, to some extent, to the importunings of the automobile lobby and took out from the overtime provisions these three groups of mechanics, salesmen, and partsmen. I think it is a shame that the House did not adopt that which the administration requested. The effect of it was to get from under the minimum wage law, as a concession to the automobile lobby, this exemption with respect to overtime.

Mr. YARBOROUGH. That is correct.

Mr. CLARK. In my opinion it is a shame that the House made an exemption for all three categories.

When the bill came to the Senate, as I understand, under the leadership of the Senator from Texas, it was felt it was not feasible to stand up and fight against the automobile lobby to the extent of restoring all that the administration sought, but in a spirit of compromise the Senator from New York, who is the ranking minority member, and the Senator from Texas, who is the chairman of the subcommittee, felt that we should at least take the partsmen out from the overtime exemption. There is not too much justification for leaving the mechanics and salesmen in it, but a distinction could be made for the others. An illustration was given of the mechanics

who must go out on the field where there is a harvesting of sugarbeets. It is difficult to keep their time records. So, it was said, we will let the salesmen and mechanics out from under the overtime provision—thus cutting down on their wages and putting them in a wage category far lower than they had—but there is no excuse whatever for including partsmen in the overtime exemption, because the partsman, like the stenographer, would be working inside.

I am a "city slicker." I do not live on a farm. I wish I did. But it seems to me it would be a rare day when one would have to take a partsman, who seems to be a clerk behind a counter, to go along with a mechanic to help find out what is needed on a tractor or a piece of machinery used in harvesting sugarbeets. I am happy to support the Senator from Texas.

Is that not why the Senate committee went a little way in trying to cover people who should be included under this bill?

Mr. YARBOROUGH. That is correct. Reference has been made to the mechanic having to wake up a partsman to find out what part is necessary in a tractor. It is unlikely that a partsman would be needed to help the mechanic repair a car and tell him what is needed. I have never heard of it. It would be done only to a very limited extent, and one of the rare places where we have heard a partsman goes out with the mechanic at night to see what part is needed is in the Senate Chamber.

Mr. CLARK. Will the Senator yield further?

Mr. YARBOROUGH. I yield.

Mr. CLARK. As I understand the situation, we ought to be worrying and shedding tears for the employer of the partsman, or extolling the work of the mechanic or the salesman or the partsman. I have no doubt that they are laborers worthy of their hire, but why should their employers get the benefit of paying them less than the laborer is entitled to, by exempting a man who is not doing the kind of work outside the store which gives some excuse, at least, for exempting the salesman and the mechanic?

Mr. YARBOROUGH. I will say this to the distinguished Senator from Indiana: since the bulk of his remarks deal with farms and farming practices, and farming is different in his area than in mine, I would be willing to accept an amendment that would except dealers in farm implements.

But we have here involved aircraft, the great number of gasoline-propelled vehicles in this country, which are automobiles and trucks, and other fuel-driven machines.

If that is an impediment to the rural economy, I would be the first to wish to support the Senator's amendment. Perhaps there is something that we did not learn in the committee. Frankly, we did not learn in the committee that this was an impediment to rural communities. If it is, and if it represents any impairment of the farmers' ability to produce, I am willing to accept the amendment, if limited to farm implements.

Mr. BAYH. If the Senator will yield, I have never, to my knowledge—unless I did so inadvertently—stated that the parts man is going to accompany the mechanic out to the countryside. But if he comes into the shop at an hour at which he would not normally work, he is working, if he comes in to get that part.

I wish to emphasize, as far as equality is concerned—and we have been stressing equality of treatment—I think frankly we have a lot of points on our side that greater equality of treatment would be achieved by accepting my amendment, because the difference between the parts man and the secretary—the secretary being covered and the parts man not—is that the parts man, in a great many instances, is covered by a bonus or a percentage of the amount of sales that he makes.

Mr. HRUSKA. Mr. President, will the Senator from Texas yield?

Mr. YARBOROUGH. Mr. President, I yield the floor.

Mr. HRUSKA. Mr. President, it has been suggested by the Senator from Pennsylvania that there is no use shedding tears for the employer of the parts man. I understood the explanation for the elimination of the parts man from the exemption, it was because of tears which are being shed by the committee for the wholesalers-distributors, which prompted the committee to strike parts men from the exemption.

Mr. YARBOROUGH. Mr. President, will the Senator yield?

Mr. HRUSKA. Surely.

Mr. YARBOROUGH. They are the very ones whom this amendment would help—General Motors, International Harvester, and all the rest. The amendment would be helpful to them. We are talking about helping the hardware dealer, or the man on Main Street when we support the committee bill.

Mr. HRUSKA. Or the implement dealer. Not the distributor, but the dealer.

Mr. YARBOROUGH. Not the dealer. It is the big distributors who would be helped by the amendment which the Senator from Indiana suggests.

Mr. HRUSKA. The committee may have a different idea of the English language than I, but according to the committee report, it narrowed the exemption from the provisions in the House bill to lessen the disadvantage to the wholesalers-distributors who have no exemption.

I am thinking about the relatively small farming communities and the county seats that have no wholesalers-distributors, but rather a repair shop, a service shop, or a small dealership. If you want to get at those distributor places zero in on them, but do not include the many service places and small dealerships, which have to depend upon a competent partsman to make their business run.

Mr. YARBOROUGH. All these retailers, these stores, one might call them—a better term would be "stores"—selling parts up and down the street. Surely they wanted to be exempt. They did not ask us to bring in the partsman. They

said, "Exempt us, too." That would take partsmen all over the country out from under the coverage of the law.

Mr. HRUSKA. But they are running a different type of business. They are not subject to being called up in the middle of the night, or on Sundays and holidays, as are the small dealers.

Mr. YARBOROUGH. But many of them cannot survive now, because a man goes to buy his automobiles and finds his mechanics and servicemen there, and more and more, the parts departments of these dealerships are growing up. That is their competitive right, to build up their parts departments. That is part of the American system.

But our effort, in the committee, was to try not, under the Federal law, to give one man retailing parts an advantage over the others. All we are trying to do is to keep the competition equal, insofar as the Federal law is concerned; and not to have the Federal Government passing a law saying that if you retail parts from one type of store, you have got to pay overtime if you work your partsman over 8 hours a day or 48 hours a week. If we pass the House provision, we are saying that in another type of business, you can work your employees 50 or 56 hours a week, and will not have to pay any overtime.

It was the thought of the committee that if the Federal Government is reaching its long hand in here, if they are doing the same thing, and one calls his business a store and the other says, "I am an automobile dealer," that we should treat the partsmen, at least, both alike.

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum.

Mr. JAVITS. Mr. President, before the Senator does that, will he yield to me?

Mr. HRUSKA. Surely.

Mr. JAVITS. I would like to point out one thing to the Senator. I was, as a matter of fact, a party to this effort to compromise. We could have gone either way, up or down. We chose to go up for both, instead of down for both, because the case made for the parties was equally persuasive by the dealerships as well as by the wholesalers.

But I should like to point something out to the Senator which I gather has not actually been done; that is the only reason I rise.

We did take care of one other big problem of the dealers.

Mr. President, may I be recognized independently? The Senator from Nebraska has been called from the floor, and will yield to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, the point I wish to make is that we did take care of a very real problem of the automobile dealers in eliminating the idea that if their mechanics, their salesmen, and their partsmen were employed in a separate structure from the one in which they conducted the garage or service station, that that would deprive them of the exemption which they had. The report, at page 32, contains language which I proposed, to make it clear that the ex-

emption will extend to the employer even if certain of the employees are separately housed. This is a tremendous advantage, because it was a problem, very greatly complained about, to the dealers.

Then our factual inquiry demonstrated that as far as the automobile partsmen were concerned, they did work regular hours, they were not, like the mechanic and the salesman, subject to call at any time that a fellow's car broke down, but the parts departments generally remained open at stated times, even in the smallest establishments. And therefore, the thing to do was not to deprive of the overtime partsmen of the wholesalers by grading them down to the level of the retail dealers, but rather to grade the whole thing up.

I do not subscribe to the idea that this is for any automobile lobby, and I do not subscribe to the idea that these amendments are designed to favor anybody. They merely equalize competition, and at the same time give the worker his due, which is overtime pay, in a perfectly normal operation which we found, as a matter of fact, does not have the vicissitudes and the uncertainties which can be ascribed to the jobs of the mechanic or the salesman. I think it is a perfectly fair compromise. It is constructive. I hope very much that the Senate will agree with that view. I yield the floor.

Mr. BAYH. Mr. President, I modify my amendment which is at the desk.

I understand the Senator from Texas, who has a long tradition of agricultural background, is willing to accept this type of amendment.

I modify my amendment so as to make it read:

On page 49, lines 14 and 15, strike out "(other than partsmen)".

On page 49, line 16, insert after the word "aircraft" "and partsmen primarily engaged in selling or servicing farm implements".

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. HRUSKA. Mr. President, the amendment will refer to the selling or servicing of farm implements, is that correct?

Mr. BAYH. The Senator is correct.

The main thrust of this amendment would be to eliminate the argument previously made with respect to that industry or to dealerships dealing in that industry.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Mr. BAYH. Mr. President, I send to the desk my modified amendment and ask that it be stated.

The PRESIDING OFFICER. The modified amendment will be stated.

The legislative clerk read as follows:

On page 49, lines 14 and 15, strike out "(other than partsmen)".

On page 49, line 16, insert after the word "aircraft" "and partsmen primarily engaged in selling or servicing farm implements".

Mr. YARBOROUGH. Mr. President, I accept the amendment as modified by the distinguished Senator from Indiana.

Mr. HRUSKA. Mr. President, I deeply appreciate the willingness of the chair-

man to accept the modified amendment. I am sure, after consultation with the Senator from Indiana, it will serve the purpose we are trying to achieve.

I fully support the modification and I thank the chairman of the subcommittee.

Mr. YARBOROUGH. Mr. President, I thank the Senator from Nebraska and the Senator from Indiana.

When this matter was discussed in the committee and in the subcommittee, I never heard the farm element mentioned. This was primarily a competitive situation among dealers on the streets of the cities and towns, which dealers were selling parts of automobiles.

I am glad we brought this matter up, so that we could be certain that farm communities would not be disadvantaged by the requirement that tractors and other farm implements be serviced on the farm. This is a clarification that is beneficial to the bill.

Mr. BAYH. I thank the Senator from Texas for his cooperation and understanding. It has been enlightening to all of us to have an opportunity to explore the alternative opportunities and consider the impacts that would result. The amendment will reach the major objective we are trying to attain; that is, a removal of the burden that would be placed on rural America. I thank the Senator from Texas for his assistance.

Mr. YARBOROUGH. I thank the Senator from Indiana for his contribution. He has been most helpful in the preparation of the bill.

Mr. JAVITS. Mr. President, I am delighted that this problem has been solved. I assure the Senator from Nebraska and the Senator from Indiana that, as the Senator from Texas has said, our eye was not on this particular target—the farm implement dealer. I am much pleased that we have found it possible to satisfy what appears to be a legitimate need.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Indiana.

The amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I am told that a problem arises from language on page 15 of the report. The problem relates to the paragraph entitled "Clarification and Consolidation of Exemptions Relating to Seasonal Industries and the Handling and Processing of Farm Products." We included certain conditions which, if they exist, will require overtime exemption for canning, packing, et cetera. The last three lines on page 15 read as follows:

Perishable refers to commodities subject to deterioration or spoilage under ordinary circumstances unless some affirmative action is taken within a short time to preserve them from spoilage or decay.

I ask the Senator from Texas whether the word "short" is an essential qualification to that definition or criterion, or whether the sentence is complete without it.

Mr. YARBOROUGH. Mr. President, it is fortunate that the distinguished

Senator from New York has raised this question, because there is a conflict in the language in the report. At the top of page 31 of the report, the paragraph reads:

Perishable covers products subject to decay or spoilage. A commodity is not to be regarded as a perishable at the time of delivery unless under ordinary circumstances some affirmative and continuous step such as refrigeration or canning is necessary to preserve it from spoilage or decay.

The last sentence on page 15, as pointed out by the distinguished senior Senator from New York, reads:

Perishable refers to commodities subject to deterioration or spoilage under ordinary circumstances unless some affirmative action is taken within a short time to preserve them from spoilage or decay.

It was the intention of the committee, at the sessions I conducted, that the definition of "perishable" should be that at the top of page 31, and that should be considered the correct definition. The staff worked under great pressure. It was a tremendous job. This 80-page report was compiled in a few days, and it was printed last night. It was filed yesterday afternoon, and the report was on the desks of Senators by 8:30 this morning. There is a conflict in the language, and it was not intended that the definition of "perishable" at the bottom of page 15 include the words "within a short time."

Mr. President, for the clarification of the RECORD, I ask unanimous consent that the last line on page 15 be corrected by deleting the words "within a short time."

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. YARBOROUGH. With that deletion, the last sentence of page 15 will now read as follows:

Perishable refers to commodities subject to deterioration or spoilage under ordinary circumstances unless some affirmative action is taken to preserve them from spoilage or decay.

I agree with the distinguished Senator from New York. That was the understanding of the committee.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER (Mr. CLARK in the chair). Will the Senator repeat his request?

Mr. JAVITS. There was a unanimous request, Mr. President, to correct the report at page 15, in the last line thereof, and we would like a ruling on that.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? The Chair hears none, and it is so ordered.

Mr. JAVITS. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KUCHEL. Mr. President, during the time I have been permitted to be a Member of the Senate, I have been interested in and deeply concerned with the plight of the American farmworker. I come from a State which has more protective farm legislation than any other State in the country. I come from a State where the average hourly wage for farm labor, without board or room, was \$1.42 as of January, 1966.

Let the RECORD clearly show, Mr. President, that the hourly wage rate for farm labor in some of the other States of the Union is as low as 65 cents.

During the administration of former President Eisenhower, the Department of Labor issued a report in which it said:

On balance it appears both desirable and feasible to extend Federal minimum wage legislation to agriculture, at an economically appropriate rate, in order to establish a wage standard for agriculture and bring about an improvement in the wage structure of hired farm labor. To do so, a Federal minimum wage would need to be applied to a substantial proportion of hired farm labor, in many areas, and particularly in the low-wage regions of surplus farm labor. It need not apply to all hired farmworkers in order to establish an effective minimum wage standard in agriculture. (Problems Involved in Applying a Federal Minimum Wage to Agriculture Workers, Department of Labor Report, April 1960.)

I am happy to observe that the bill before us provides some coverage, however small, to the American farmworker. I observe that section 302 of the bill provides that employees shall receive not less than \$1 an hour during the first year following the coming into effect of the Fair Labor Standards Act Amendment of 1966, not less than \$1.15 an hour during the second year from such date, and not less than \$1.30 an hour thereafter.

It then goes on to provide for payment on the basis of piecework under the following verbiage. I quote from page 53, line 16:

Provided, That in the case of workers employed in agriculture in hand harvest work by an employer on a piece-rate basis, if during any workweek the average of the aggregated earnings of such workers exceeds the minimum hourly wage as prescribed above, the employer shall be considered to be in compliance with this section: *Provided further*, That no employee employed on such piece-rate basis is paid less than 75 per centum of the minimum wage applicable under this paragraph.

Mr. President, I ask unanimous consent to have printed in the RECORD, the comments of the committee on the provisions of the bill dealing with farm labor as they appear on pages 19 through 21.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

AGRICULTURAL MINIMUM WAGE

The wages paid many farmworkers are far below the minimum wage standards established by the act. The minimum wage for covered agricultural workers will be \$1 an hour beginning February 1, 1967; \$1.15 an hour beginning February 1, 1968; and \$1.30 an hour beginning February 1, 1969. Room, board, and other facilities customarily furnished employees by employers are "wages" according to their fair value or reasonable cost as provided for in section 3(m) of the

act. In the case of hand harvest workers paid on a piece rate basis, the employer will be considered as complying with the act if the hourly average of the aggregate earnings of all such workers during any workweek exceeds the minimum hourly wage. However, in no event may any individual worker be paid less than 75 percent of the applicable minimum wage.

The committee is fully aware of its responsibility in extending the minimum wage standards of the Fair Labor Standards Act to agricultural employment for the first time. The initial rate established for farmworkers is the same rate set for all newly covered workers—\$1 an hour in February 1967. The bill further provides that the increases in the minimum wage for farmworkers will parallel the increases provided for newly covered nonfarmworkers—in February 1968, to \$1.15; and in February 1969, to \$1.30. While the committee has provided for two additional increases for nonfarm newly covered workers so that all nonfarmworkers will be required to be paid at least \$1.60 by February 1969, no schedule of escalation has been included to raise farmworkers to the Federal minimum wage of \$1.60. It is the intention of this committee that all workers under the act be subject to a single minimum wage. The committee action in limiting the pattern of escalation for agriculture at this time to \$1.30 in February 1969 is to insure that there be a careful evaluation of the effects of applying a minimum wage to agriculture. The committee expects that agriculture will adjust without adverse effects as have other industries under the act and that additional increases will be provided in the future.

A 1965 survey of 1.4 million hired farmworkers indicated that 70 percent earned less than \$1.25 an hour; 50 percent earned less than \$1 an hour; and 34 percent earned less than 75 cents an hour. Average hourly earnings in agriculture were \$1.01 an hour on July 1, 1966, in the United States. In some States the average falls below 60 cents an hour and there are reports of wages of 30 cents an hour. About 2.1 million persons did farm wage work only and about 1.3 million were employed at both farm and nonfarm wage work in 1964. Those workers who did farm wage work only averaged about 100 days of farm wage employment and earned \$689 during the year. Workers employed at both farm and nonfarm wage work did an average of 98 days of nonfarm wage work and 49 days of farm work and earned total wages of \$1,379. There were 2.5 million households in the United States that contained at least 1 person who did farmwork for wages in 1964. Over half of these households had annual income below \$3,000.

The two top classes of farms (class I equals \$40,000-plus and class II equals \$20,000 to \$39,999, total value of farm products sold commercially) include only 9 percent of all farms, but they produce 50 percent of all farm output. These two top classes of farms pay out more than 70 percent of the total annual farm wage bill. In fact, class I farms alone pay out more than half of the annual commercial farm wage bill. Very recent sample studies indicate that this concentration of agricultural production and hired labor on large farms has been increasing. Such cost increases, focused primarily upon the largest agri-business enterprises who tend to be the price leaders, would tend to create a more favorable competitive situation for family farm operators. The imputed wage for the family farm operator and his family would no longer be so drastically undermined by the tragic wages of workers on the largest farms.

Between 1950 and 1960 output per agricultural man-hour increased 69 percent compared with 23 percent in nonagricultural employment. From 1960 to 1964, the output per man-hour in agriculture increased 23

percent compared with 13 percent in non-agricultural industries. The labor of 1 farmworker supplied the farm products needed of 11 persons in 1940, 15 persons in 1950, 26 persons in 1960, and 33 persons in 1964. This has been accomplished through the use of improving farming techniques. Mechanical harvesting has made enormous strides and use of fertilizers and other chemical agents has grown rapidly. Despite this gain in productivity, wages of farmworkers have lagged far behind those of workers in nonagricultural industries. Not only have farm labor wages lagged behind those of other workers, but a widening of the gap between agricultural and nonagricultural wages, has in fact, occurred despite the fact that output per man-hour in agriculture was 2.7 times as great in 1964 as in 1947, while in nonagricultural industries it was 1.6 times as great.

The policy of the Fair Labor Standards Act is to provide a wage which will enable a worker to maintain a decent standard of living. If prices were to rise equally or faster than the rise in wages, the real earnings of workers would remain stable or decline. If the price of farm products were to rise more than wages as a result of the coverage of farmworkers, the intent of the legislation would be negated. Thus, the committee looked at the relation of the cost of field labor to the price of farm products to the consumer. The conclusion is clear. Field labor is a very small percentage of costs to the consumer. The cost of bringing seasonal agricultural wages up to the level of about \$1.25 an hour is approximately equal to 1 cent per unit for most vegetables and fruits—per pound or per dozen or per head or whatever the ordinary unit may be. If retail prices go up more than that and if the increase is blamed on rising labor costs in the field, the American housewife should demand a complete and immediate congressional inquiry.

Mr. KUCHEL. Mr. President, over a year ago, on July 29, 1965, I introduced a bill in the nature of an amendment to the Fair Labor Standards Act, which would do two things. First, it would remove the exemption in the present law under minimum wage laws and would apply minimum wage standards to workers on farms which require more than 300 man-days of hired farm labor during any one of the four preceding quarters of the year. During the first year after the adoption of my bill, a minimum wage of not less than \$1 an hour would apply. In the second year, a minimum wage of \$1.15 an hour would apply. In the third year, the national minimum would be applied. That is, the national minimum set by the Congress.

Second, my bill would provide limitations on the use of agricultural child labor outside of school hours and when school is not in session. If this amendment were adopted, a child would be permitted to work in agriculture outside school hours, with exceptions for on a family farm, only if he were 14 years or older.

I am glad the committee has seen fit to take some action along the lines of my recommendations.

Mr. President, the amendment that I am about to offer is quite clear and to the point. It would provide, as does the bill before us, that in the first year of this bill's operation as a law, a dollar an hour will be the minimum wage for agricultural labor. It would provide that in the second year, as does this bill, the minimum wage for agricultural labor shall

be \$1.15 per hour. It would provide, as does this bill, that in the third year of operation of this bill as a statute, \$1.30 an hour shall be the minimum wage for agricultural labor.

But it goes on to provide that in the fourth year the minimum wage for agricultural labor shall be \$1.45; and in the fifth year \$1.60 an hour shall be the minimum wage for agricultural labor.

Mr. President, I do not seek to change the 500 man-day requirement, although my bill a year ago would have provided for a 300 man-day requirement.

I do not seek to change the provisions of the piecework part of this section in the bill.

I do seek to provide that what we are about to do in the Senate with respect to an ultimate minimum wage of \$1.60 an hour for people who work in industry, in businesses and in retail stores in America, will also be provided as a minimum for people who work on the farms.

In the years that I have been in the Senate I have listened to Senators bring forth legislation to help the migratory farm worker. We have appropriated money under various provisions of the law to help the migratory worker in America and his family. I have voted for every single one of those proposals as they have come forward in the Senate.

But here is an opportunity for Senators to demonstrate by their vote whether or not they are going to give the benefit of a minimum wage, however low it may be, to a farm worker on exactly the same basis as they are going to give it to a man working in a store down the street, or anyplace else in this country.

AMENDMENT NO. 763

Mr. President, I send to the desk an amendment which I ask to be received, printed, and placed on the desks of Senators tomorrow.

Mr. President, I ask unanimous consent that the text of the amendment appear at this point in the RECORD.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk read as follows:

On page 53, beginning with line 12 strike out through the word "thereafter" in line 16, and substitute the following: "not less than \$1.00 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during the second year from such date, not less than \$1.30 an hour during the third year from such date, not less than \$1.45 an hour during the fourth year from such date, not less than \$1.60 an hour during the fifth year from such date, and not less than the minimum wage rate prescribed by section 6 (a) (1) thereafter".

Mr. KUCHEL. Mr. President, I yield the floor.

Mr. FANNIN. Mr. President, I call up my amendment (No. 769) and ask that it be stated. I do this with the understanding that it will become the pending business and will not be voted upon today.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, I do not under-

stand that the Senator from Arizona is making a unanimous-consent request. I understand that he is announcing to the Senate he does not expect to have the amendment voted upon today. Let me say to the Senator that I am prepared to join him in whatever is necessary to see that that happens. I do not believe that he intends any unanimous-consent request.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The legislative clerk read the amendment as follows:

On page 52, at the beginning of line 15, to strike out the word "year" and insert "two years".

Mr. FANNIN. Mr. President, I wish to express my appreciation to the Senator from New York for his comments.

Mr. President, this amendment is a simple, prudent step to minimize the inflationary impact and disruption inherent in legislating an increase in the minimum wage to \$1.60.

As reported by the committee, the bill provides for a 20-cent increase that would become effective only 12 months after the economy had absorbed the 15-cent increase to \$1.40. Pennies may not sound like much, but consider the fact that this proposed increase is equivalent to an annual rise of 14.3 percent—a drastic upward movement that is without precedent in nearly three decades of minimum wage legislative history.

My amendment would not disturb the 15-cent boost to \$1.40, but would stretch out the absorption period to 24 months—the same length of time voted by the House.

Actually, if we followed the pattern of increases and effective dates established in prior amendments to the minimum wage law, a 36-month period would be more appropriate.

Even the 24-month period called for in this amendment would exceed the historic pattern and most certainly would shatter the remnants of the administration's guidelines. It would produce an annual increase of 7.2 percent—a figure that is more than double the guideline concept.

The 36-month period by contrast would have produced an annual increase of only 4.7 percent, and this is considerably more in keeping with the guideline concept as well as past experience.

Mr. President, with all of the various statistics and percentages that have been employed on all sides of this matter, it is easy to obscure the fundamental point.

As the late George Bernard Shaw once observed:

If you took all the economists in the country and laid them end to end, they wouldn't reach a conclusion.

Nevertheless, there should be no doubt in anyone's mind by this time that serious inflation exists in the economy today—and it is getting worse every month. There may be debate about the extent but not the substance.

It is reasonable to assume that the more skilled workers, who have always enjoyed wages above the minimum, will continue to insist on their historic differential. If this bill is not amended,

we will be legislating an immediate 14.3 percent increase over the first year in the average manufacturing wage.

This flies in the face of economic prudence and the mountains of evidence that attest to inflation's threatening proportion.

Surely, as legislators, we have a responsibility to do everything we can to exercise the kind of sensible economic restraint that we urge upon both management and labor.

In my judgment, it would be a serious mistake to step up the minimum wage so quickly.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. YOUNG of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YOUNG of Ohio. Mr. President, my view is that liberalization and expansion of the minimum wage law is needed. I support the pending legislative proposal.

I shall, of course, listen to arguments on amendments as they are offered and shall vote in accordance with my judgment and conscience for or against such amendments.

Mr. President, 28 years ago, following the great depression, Congress enacted the Fair Labor Standards Act, declaring that it would be national policy to achieve minimum wage levels necessary for the maintenance of the health, efficiency, and well-being of American workers.

This is one of the many imprints which that great President, Franklin D. Roosevelt, left upon the pages of the history of this country and which will doubtless endure forever. President Roosevelt called this beneficent legislation the keystone of the labor policy of his administration.

Mr. President, it was far more than that. For the first time the workingman or workingwoman at the bottom of the economic ladder was given the assurance of a decent standard of living. Since that time, Congress has three times acted to boost the minimum wage. In 1949, it was increased to 75 cents an hour; in 1955, to \$1 an hour; and in 1961, to \$1.25 an hour. Whatever fears existed in the past that a higher minimum wage would adversely affect marginal employers were found to be groundless and have long disappeared.

The pending bill will increase the minimum wage for those already covered to \$1.40 an hour effective next February and then to \$1.60 effective February 1968. For those not presently covered, the bill provides a minimum wage of \$1 effective next February and 15 cents an hour each succeeding year until it reaches \$1.60. For agricultural workers, it provides a minimum wage of \$1 effective next February and 15 cents an hour each year until it reaches \$1.30.

At the present time, there are 17,667,000 workers not covered by our minimum

wage laws. Under the bill, as reported by the Senate Committee on Labor and Public Welfare, 7,180,000 of these working men and women will come under the beneficent provisions of the minimum wage law if this legislative proposal becomes the law of the land.

Mr. President, we are fortunate in that we live in the richest nation in the world. We have the greatest material resources any nation has ever known. In the midst of this abundance, almost one-fourth of our people are living at or near the poverty level, unable to afford good health care, decent housing, adequate food, and proper clothing. Most are employed, but no matter how long or how hard they may work, they are not paid enough for their labor to meet the basic needs of daily living.

The Department of Labor estimates that a worker requires more than \$2 an hour to support a family of four with a minimum decent standard of living. It is clear, therefore, that under present circumstances even \$1.60 an hour can hardly be considered a satisfactory living wage.

The goods and services of employers who pay adequate wages must compete with those produced by unscrupulous employers who pay substandard wages. A realistic minimum wage will bring added prosperity to our businessmen, as well as to their employees. It will protect and develop their markets. People will have more money to spend, and will spend it on necessities. The fairminded employer will no longer be at a disadvantage with those who would depress wages to their lowest point.

Mr. President, this Nation can no longer tolerate having millions of its citizens condemned to a caste which virtually prevents bettering their lives and those of their families. One of the great promises of America is the promise that here all persons may live in comfort and dignity. This promise must be fulfilled. Substandard wages should be eliminated from the American scene. They are a relic of the past and cannot be condoned in this, the wealthiest nation on earth.

We may boast of our high standard of living and point with pride to our productive economy, but our boast will ring a little hollow and our pride will be somewhat tarnished when there are millions of citizens living in poverty in the midst of plenty.

We must help bring more of the fruits of the economy to all Americans by increasing the minimum wage and expanding its coverage. Thereby, we shall help bring to millions of American men, women, and children just a little more of God's sunlight.

I am happy to support the bill. I shall gladly vote for any amendments that may improve or liberalize it. In the end I shall cast my vote for this bill.

Mr. YARBOROUGH. Mr. President, an amendment has been offered today, to be voted on tomorrow, to stretch out the effective date of the increase in the second stage of the minimum wage from 1 to 2 years.

Under the bill as reported by the committee, the 29 million who would be covered by the minimum wage would have

an increase to \$1.40 an hour on February 1, 1967.

Then there would be a second step up to \$1.60 an hour on February 1, 1968.

An amendment has been offered to stretch out that second step in that guaranteed minimum wage to 2 years, to February 1, 1969.

I would like to pause for a moment and point out what we are talking about by the minimum wage law; the 29 million who are covered, and the 7,200,000 new people to be covered under the minimum wage law.

At \$1 an hour, if a man works 8 hours a day in some of these hotels, motels, doing hard, backbreaking work, 5 days a week, 40 hours a week, 52 weeks of the year, without taking a single vacation or a day off on account of illness or for any other reason, his total wage will be \$2,080 a year—\$1,000 below the poverty level.

All groups in this country agree that one making less than \$3,000 a year is in the poverty bracket, because that much is needed to provide a family with food, shelter, clothing, and medicines—not counting insurance and funeral expenses. But for the bare essentials of survival, for food, shelter, and clothing, all of that, that \$2,080 would go, and it is below the poverty level.

Under the present law, where 29 million workers are covered, if they work 52 weeks a year, 8 hours a day, 5 days a week, without taking a day off, without being sick—if they get sick these wage workers do not get paid—without taking a vacation of even 1 day, they will receive \$2,600 under the present minimum wage law.

When that hourly wage is increased to \$1.40, and they still work 8 hours a day, 5 days a week, 52 weeks a year, without a day off, they will get \$2,912 a year. If they are ill or are laid off, they get that much less. Most of these people want to work every day because they need all they can make to support their families just to survive. Yet, even when they receive that, they are still below the poverty level.

Before they can get to the \$3,000 poverty level, they must come to the next step, \$1.60 an hour. Then if they work 8 hours a day, 5 days a week, 52 weeks a year, at \$1.60 an hour, without taking any time off, they will get \$3,328 a year, and for the first time the minimum wage law will bring them to a level that is a little above the poverty level.

We hear it said that people above a certain age and certain disadvantaged people are those who live on this poverty level. But the fact is that the minimum wage at present does not provide earnings above the poverty level.

It is hoped to bring the 29 million, and an additional 7 million, for a total of 36 million, to the point where they can receive wages above the poverty level of \$3,000 a year.

Now we are asked to stretch this out for another year before the people can get to a level just above the poverty level.

I have in my hand an editorial from the New York Times of August 23, 1966, entitled "Aiding the Working Poor." It reads:

Among the Americans hardest hit by the recent upsurge of consumer prices are the millions of workers at the bottom of the wage-ladder, many of whom already earn so little that they must rely on public relief to supplement their weekly pay envelopes. These workers will be the chief beneficiaries if the Senate acts swiftly to approve the liberalized minimum-wage bill unanimously voted last week by its Labor Committee.

The bill would raise the present Federal wage floor of \$1.25 an hour to \$1.40 next Feb. 1. A year later the minimum would go to \$1.60. The effective date for the second step increase is a year earlier than that set in the bill passed by the House last May. Unquestionably, the argument will be made on the Senate floor that the House date should be reinstated lest the double increase in the span of a single year aggravate inflationary pressures.

That is exactly the argument we are hearing, that this increase ought to wait for 2 years, because of inflationary pressures and because it will increase the cost of living.

Adverting to the New York Times editorial:

We believe that holding down wages for the disadvantaged is a poor way to combat inflation. The cost of living is currently going up at an annual rate of 3.5 percent, and another sharp rise was recorded last month. New York, with its hundreds of thousands of low-wage workers in Harlem, Bedford-Stuyvesant and other slum areas, had a July increase more than double the national rate, chiefly because of the higher subway fare. A complex of other factors, including high wage settlements for workers now earning three or four times the Federal minimum, threatens to push living costs up even faster. The impact of this upsurge is particularly cruel on those already at the borderline of subsistence.

That is where these people who are protected by the minimum wage law are—on the borderline of existence.

Continuing from the editorial:

Economists make out a persuasive case that the whole concept of the minimum wage needs re-examination. In many instances the effect of a higher wage floor is to speed the automation of work now done by the unskilled and undereducated—

And no one is more conversant with that problem than is the Senator who is presently presiding in the chair [Mr. CLARK], who has given more effort and study to this problem than has any other man in the Senate—

the groups with the highest unemployment ratio. But the consideration of some type of Government-guaranteed minimum family income or social wage to aid such workers is in too preliminary a stage to represent any answer to the erosion of their meager incomes by 1966 inflation.

We hope the Senate will not only authorize the timetable proposed by its committee but will persuade the House conferees to join in faster action. We hope, too, that recommendations for extending protection to seven million more workers, including some 400,000 on the farms, will also get quick concurrence.

Mr. President, I concur in that New York Times editorial.

I have here a letter which reached me today, signed by Mr. Gardner Ackley, Chairman of the President's Council of Economic Advisers, dated August 24, 1966, reading as follows:

DEAR SENATOR YARBOROUGH: This is written in answer to your request for our views on the Fair Labor Standards Amendments Act of 1966.

It has been charged that the bill was inflationary, so we asked the White House and the President's Council of Economic Advisers whether it was inflationary.

They wrote:

The President's Council of Economic Advisers believes that the enactment of H.R. 13712, as amended by the Senate Labor Committee, will benefit the welfare of the Nation. The enactment of the bill will represent a major step in the process of eliminating substandard wages and working conditions, without imposing significant or abrupt cost increases on employers. Thus, the content of H.R. 13712, as amended, reconciles the goals of our social policy with the vital objectives of noninflationary prosperity for the American economy.

Providing the protection of the minimum wage to the American worker has been an important element in our national policy for almost 30 years. Underlying this policy has been the recognition that some segments of our labor markets work imperfectly and that many workers are at a disadvantage in bargaining with their employers. But in recent years, the protection has applied to a smaller proportion of private nonsupervisory workers than was the case in 1938, when the Fair Labor Standards Act was passed. Moreover, the level of the minimum wage has not kept pace with our economic advances. The enactment of H.R. 13712, as amended, will rectify these developments. The extension of the coverage of the Fair Labor Standards Act will bring for the first time the protection of the minimum wage to millions of workers in services, in the minimum for those already covered by the FLSA will make an important contribution toward the elimination of labor conditions that are inconsistent with the rising standards of earnings that characterize the majority of the American labor force.

The recent appearance of stronger upward price pressures in the economy naturally raises anew the question of the desirability of lifting minimum wages at this particular time. However, in our judgment, current circumstances are not such as to dictate further delay. In the first place, the provisions of the bill will become effective in stages; the timing makes possible a gradual adjustment without causing disruptive cost pressures.

Second, the minimum wage for the newly covered worker begins with a very modest figure of \$1.00 and rises gradually over a period of 4 years.

Third, the fact is that under our present circumstances of virtually full employment, market forces are bound to raise the wages of the lowest paid workers faster than those of other workers. When the alternative for the low-paid was unemployment, employers in low-wage industries were able to retain their labor force even though their wage rates were considerably below the average. Under present circumstances of strong labor demand, wages paid in these industries have to rise faster than wages generally if these industries are to retain their workers.

Fourth, and finally, the lowest-paid workers are among those most hurt by the rise that has already occurred in living costs. Although a sound economic policy should not provide for all wages to rise more rapidly merely because the rise in living costs has accelerated, equity requires that the lowest-paid should have some additional compensation for the faster rise in consumer prices.

The minimum wage increase proposed by H.R. 13712, as amended, for those already

covered by the FLSA reflects appropriate concern for the standards of noninflationary behavior of wages. As you know, the Council's wage guidepost provides for a specific exception in those cases "where wages are particularly low—that is, near the bottom of the economy's wage scales." The wages of those actually affected by minimum wage protection obviously fall into this category of exceptions to the guidepost and therefore should appropriately move up at a more rapid pace than the economy's productivity trend.

I wish to digress for a moment, Mr. President, from the reading of this letter from Chairman Gardner Ackley, to state that I do not believe that even with this, if we have a boost-up to these minimum wages, that the wages are going up, then, at a more rapid pace than our productivity trend, so rapid is that productivity trend.

But even if that be true, as Gardner Ackley points out, these wages are so low that it is justified to move them up faster, to get them up to a fair standard.

Returning to the letter:

Only in this way can our least advantaged workers move closer to the average standards of prosperity enjoyed by the Nation's labor force. When one takes account of the time span since the last increase in the minimum wage in 1963 and the timing of the increases scheduled by H.R. 13712, as amended, the rate of increase appears to take reasonable account of this particular exception to the guideposts.

In view of all these factors, enactment of H.R. 13712, as amended, will make an important contribution to the social and economic welfare of the American people.

Sincerely,

GARDNER ACKLEY.

Mr. President, I think this letter from the Chairman of the President's Council of Economic Advisers and the editorial from the New York Times completely answer this effort to stretch out the effective date of the wage increase under the minimum wage law.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield to the distinguished Senator from Oregon.

Mr. MORSE. I wish to associate myself with the remarks of the Senator from Texas. He is a very modest man, but I also wish to say, as one of the privates in his legislative army in our Labor Subcommittee, that I am proud to follow his generalship.

Mr. YARBOROUGH. Oh, Mr. President, everybody knows the distinguished Senator from Oregon is a general in these fights.

Mr. MORSE. I wish to say that the Senator from Texas has done a superb job in taking this very difficult bill through the committee and subcommittee. On various subject matters we marched up the mountain and marched down, and marched up again. I think with one of our agricultural amendments we went up and down four times—well, we went up four times, down three, and finally stayed up. We adopted the Morse amendment, which makes it possible for boys and girls in this country to earn a little pin money during the summer, and also develop valuable educational train-

ing in the importance of earning their way.

I agree with the comments made by the Senator from Texas, reinforced by the letter from Dr. Ackley. There is nothing inflationary about this bill in that it seeks to correct inequities. Where there are inequities that can be proved in the wage structure, the inequities should be corrected. All during World War II, we had the same problems on the War Labor Board, in protecting the people of the country from an inflationary tornado; but we had the obligation to correct wage inequities that were shown by the evidence to exist.

These low paid workers in this country, not covered by a minimum wage and earning less than the minimum wage, are, by and large, exploited people. I think it very well that the Senator from Texas has read Dr. Ackley's letter, and has made very clear that in working for this legislation we are not working for an inflationary bill.

There are some corrections in the bill that I think need to be made. I shall offer some amendments in regard to them. But the general framework of the bill I enthusiastically support; and I was very proud to back up my chairman in the committee in regard to the general framework of the bill.

Mr. YARBOROUGH. Mr. President, I thank the distinguished senior Senator from Oregon for his kind remarks here. We all know that in his knowledge of the field of labor law, he has no peer in the Senate. I think his service on the War Labor Board during World War II, his deanship of the Oregon Law School, and his long study of labor law would naturally lead one to conclude that his knowledge of American labor law exceeds that of any of the rest of us.

On the Labor Subcommittee and the full Committee on Labor and Public Welfare, I had his strong-armed support. Without it, this bill, I have no doubt, would not be on the floor of the Senate at this time. As chairman of the Labor Subcommittee, I thank him for his very powerful and effective aid. We hope we can move the bill forward. I appreciate the Senator's kind remarks, but we all know who the giant on labor law in the Senate is.

Mr. BIBLE. Mr. President, the Fair Labor Standards Amendments of 1966 will never receive the national attention that the recent antipoverty legislation enjoyed. But I believe the improvement and expansion of minimum wage protection fires the most effective shot yet in the war against poverty—and we are not spending billions of tax dollars to do it.

What is more, I think the benefits derived from this minimum wage legislation will provide a far more significant and enduring weapon against poverty.

Certainly, Mr. President, there is a direct relation between poverty and the absence of minimum wage protection. I cite from the committee report:

There is a significant correlation between poverty earnings and exclusion from the protective provisions of the act. Among family heads employed in industries generally covered by the act, only 5 to 10 percent had annual incomes under \$3,000 in 1964. The figure is 6 to 13 percent in industries where

there is partial coverage of the act. But in industries where there is little or no coverage, the portions jumped to 29 and 47 percent, respectively.

The report also calls it a shocking fact that 41 percent of all children living in poverty were in families where there is a worker who has a full-time job throughout the year. In other words, employment alone is no bulwark against poverty when some wages do not receive minimum protection.

It is difficult indeed to explain the philosophy that it is all right for this group to endure poverty-level wages but not all right for that group. If there is any problem created by minimum wage legislation it is this inequity—and this legislation strikes at that inequity.

To my mind, the major thrust of the amendments is not the eventual increase to \$1.60 an hour they provide but the extension of this protection to an estimated 7.2 million additional workers. This protection should be made as uniform as our complex economy will permit.

By relieving the plight of the "working poor," then, we are striking a telling blow against poverty and the bonds of poverty. It may well be that this single piece of legislation can accomplish more in this direction than all the titles combined in the Economic Opportunity Act—and at far less burden to taxpayer and the Treasury. Furthermore, these accomplishments do not carry the stigma of "Government handout" and the political controversy of Government relief programs.

As has the original act of 1938, this will enable countless underprivileged Americans to enjoy dignity as well as security.

We hear the same complaints and warnings against this measure that were advanced against the original legislation—cries of economic disaster and Government-created unemployment. By forcing an increase in some wages, the critics say, we will make it impossible for many employers to stay in business. Rather than a low-paying job, the worker will have none at all.

This argument has never had substance. History has proven it false. On the contrary, minimum wage protection has given a broader and firmer base to a growing economy. By expanding this protection, we are expanding those benefits.

As has been pointed out, the cost of increased wages is insignificant against an economy that today boasts a gross national product of \$732 billion. But its benefits are far from insignificant. They amount to an estimated total of \$2 billion in additional purchasing power offered to the additional poor who will receive this wage protection.

I spoke earlier of inequities in minimum wage protection and the need to make this protection more uniform. This not only helps the individual worker but ends what amounts to discrimination against States and areas that already enjoy high wage standards.

My own State of Nevada provides an excellent example. With an average weekly wage of more than \$120 it has been difficult for Nevada to compete for

industry with States that consistently offer low wage conditions.

Naturally, an industrial investor is lured to an area where he can manufacture his product for less money. If the prevailing wages are lower, he can cut costs. Thus, a high standard area such as Nevada has a built-in penalty so far as attracting new industry. By raising wage standards nationally, we give high standard areas a competitive chance instead of a penalty.

Mr. President, I hope the Senate will act with dispatch and wisdom and enact this landmark legislation. By doing so it will render a vote of confidence in our Nation and its economy.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may meet until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE— ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 14921) making appropriations for sundry independent executive bureaus, boards, commissions, corporations, agencies, offices, and the Department of Housing and Urban Development for the fiscal year ending June 30, 1967, and for other purposes, and it was signed by the Vice President.

CIVIL RIGHTS ACT OF 1966

Mr. LONG of Louisiana. Mr. President, H.R. 14765, the new civil rights bill has passed the House of Representatives and very shortly will come before the Senate for what undoubtedly will be thorough and prolonged debate.

The most objectionable provision in the bill is that which would forbid discrimination in the sale or rental of property—the so-called open-housing section. Although the version passed by the House is much weaker than what the President asked for, it destroys private property rights which Americans have enjoyed historically.

Proponents of open housing argue that it will move the Negro one step closer to "first-class citizenship" by enabling him to escape his ghetto conditions. Such hollow reasoning does not take into account the economic realities surrounding the Negro. Without an improvement in the Negro's economic

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HIGHLIGHTS: House Rules Committee cleared child nutrition bill. Senate committee reported food for freedom bill. Rep. Abernethy opposed limitations on farm program benefits based on size of operation.

SENATE

1. FOOD FOR FREEDOM. The Agriculture and Forestry Committee reported with an amendment H. R. 14929, the food for freedom bill (S. Rept. 1527). p. 19663
2. RESEARCH. The Interior and Insular Affairs Committee reported with amendments S. 3460, to authorize Interior to enter into contracts for scientific and technological research (S. Rept. 1523). p. 19663
3. RECREATION. The Interior and Insular Affairs Committee reported with an amendment S. 1607, to establish the Point Reyes National Seashore in the State of Calif. (S. Rept. 1526). p. 19663

4. PACIFIC ISLANDS. The Interior and Insular Affairs Committee reported with amendments S. 3504, to increase authorizations for the operation of the civil government of the Trust Territory of the Pacific Islands (S. Rept. 1524). p. 19663
5. TRANSPORTATION. Agreed to the conference report on S. 3700, to amend the Urban Mass Transportation Act of 1964. pp. 19732-4
6. RECLAMATION. Concurred in House amendments to S. 490, to authorize the Secretary of the Interior to construct the Manson unit, Chelan division, Chief Joseph Dam project, Wash. The bill includes a provision prohibiting, for ten years, the delivery of water from the project for the production of basic agricultural commodities in surplus supply, unless the Secretary of Agriculture authorizes production in the interest of national security. This bill will now be sent to the President. p. 19760
Received from Interior a draft of proposed legislation to amend the Small Reclamation Projects Act; to Interior and Insular Affairs Committee. p. 19662
7. WATER RESOURCES. Agreed to the conference report on S. 3034, to authorize the Interior Department to engage in studies of the feasibility of certain water resource development proposals. This bill will now be sent to the President. pp. 19761-3
8. MANPOWER. Sen. Nelson welcomed GOP support for the proposed Scientific Manpower Utilization Act of 1965. pp. 19779-83
9. SCHOOL LUNCH; APPROPRIATIONS. Sen. Hart expressed disappointment in reduction of school lunch funds. pp. 19778-9
10. FOREIGN AGRICULTURE. Sen. Tower discussed land reform in Latin America and stated that the key to the economic development of Latin America is, therefore, the bringing into production of lands presently unproductive. pp. 19714-6
11. RICE. Sen. Mondale inserted an article outlining the efforts of the International Rice Research Institute in the Philippines to increase rice yields through developing improved seed varieties and more effective farming techniques. pp. 19712-3
12. RESEARCH. Sen. Jackson stressed the need for this Nation to move forward quickly and efficiently in oceanographic research and development. pp. 19705-6
13. MILK. Sen. Proxmire stated that if additional funds are necessary for the school milk program they should be taken from public works moneys. p. 19702
14. SOIL SURVEYS. Concurred in House amendments to S. 902, to authorize this Department to provide soil information assistance to States and other public agencies to assist them in community planning and resources development, including planning for such facilities as highway construction, recreational facilities, and water and sewage facilities. This bill will now be sent to the President. p. 19742
15. LABOR STANDARDS. Continued debate on H. R. 13712, to increase minimum wages and to extend such coverage to additional employees. (pp. 19727-32, 19742-59, 19763-76, ~~19785~~). Rejected, 37-51, Holland amendment to strike those provision in the bill extending minimum wage coverage to agricultural workers. Rejected,

22-64, Kuchel amendment, (submitted as a substitute for the Holland amendment), which would have established an escalating scale of minimum hourly wages for agricultural workers for the first five years of the bill and thereafter put farm labor minimum wages on a parity with industrial labor covered by the bill. pp. 19748-76

16. PUBLIC LAW 480. Received a GAO report on review of precautions taken to protect commercial dollar sales of agricultural commodities to foreign countries purchasing the same type of commodities under Public Law 480; to Government Operations Committee. p. 19661
17. VEHICLES. Received a GAO report on potential reductions in cost of automotive travel by Federal employees where use of Government-owned vehicles is feasible; to Government Operations Committee. p. 19662
18. USER CHARGES. Received from this Department a draft bill to provide for recovery of administrative costs of marketing orders and agreements; to Agriculture and Forestry Committee. p. 19661
19. PERSONNEL; INVASION OF PRIVACY. Sen. Ervin announced the addition of numerous cosponsors to S. 3703, to protect the employees of the executive branch of the U. S. Government in the enjoyment of their constitutional rights and to prevent unwarranted invasions of their privacy. He also spoke in favor of the bill and inserted several articles on the subject. pp. 19681-6
20. HOUSING. Sen. Clark was added as a cosponsor to S. 3714, to establish an annual or biannual national housing goal. p. 19686

HOUSE

21. CHILD NUTRITION. The Rules Committee reported a resolution for the consideration of H. R. 13361, to establish a cooperative Federal-State child nutrition program under the direction of the Department of Agriculture. p. 19872
22. RECREATION. The Interior and Insular Affairs Committee reported with amendment S. 936, to establish the Sleeping Bear Dunes National Lakeshore, Mich., (H. Rept. 1895) and H. R. 8678, to establish the Pictured Rocks National Lakeshore, Mich. (H. Rept. 1896). p. 19872
23. AUTO SAFETY. Conferees agreed to file a report on S. 3005, to establish motor vehicle safety standards. p. D810
24. MILITARY CONSTRUCTION. Agreed to conference report on S. 3105, the military construction bill, which includes a provision to reimburse CCC for family housing. pp. 19809-12
25. DEFENSE APPROPRIATION BILL. Agreed to the conference report on this bill, H. R. 15941. pp. 19792-809
26. MANPOWER. The Education and Labor Committee voted to report (but did not actually report) H. R. 16715, to amend the Manpower Development and Training Act of 1962. p. D808
27. CONTRACTORS. The Judiciary Committee voted to report (but did not actually report) H. R. 4497, to require certain contractors with the U. S. to give an

affidavit with respect to payments of subcontractors. p. D809

28. RESEARCH; CONSERVATION. A subcommittee of the Merchant Marine and Fisheries Committee approved for full committee action H. R. 11475, amended, to provide for the control or elimination of jellyfish and other such pests in the coastal waters of the U. S., and H. R. 13447, amended, to authorize the Secretary of the Interior in cooperation with the States to preserve, protect, develop, restore, and make accessible estuarine areas of the Nation which are valuable for sport and commercial fishing, wildlife conservation, recreation, and scenic beauty. p. D809
29. WEIGHTS AND MEASURES. The "Daily Digest" states that the Rules Committee "Denied a rule" on S. 774, to authorize a study of the practicability of the adoption by the U. S. of the metric system of weights and measures. p. 809
30. LABOR STANDARDS. Rep. Dent spoke in support of his bill to amend the Fair Labor Standards Act of 1938 to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas. p. 19791
31. MARKETING. Rep. May expressed concern over the "higher food and grocery prices that would result from enactment" of the packaging and labeling bill stating that "in education--not legislation--lies the answer to eliminate consumer confusion in the market place." pp. 19826-7
32. ACREAGE ALLOTMENT. Rep. Andrews, N. Dak., criticized "the increase in wheat acreage allotments for next year," and Secretary Freeman's announcement that next year there will be "unlimited barley production." p. 19827
33. TRANSPORTATION. Rep. Findley announced his support of legislation to create a Department of Transportation stating that it might, however, need some corrective amendments. p. 19827
Rep. Schriver discussed some of the "faults" of the Department of Transportation bill. pp. 19829-30
34. NATIONAL PARKS. Rep. Boland paid tribute to the National Park Service on its 50th anniversary. pp. 19862-3
35. WATER POLLUTION. Rep. Don H. Clausen discussed the "problems of water pollution" and inserted the text of his bill to provide a tax incentive to industry for the construction of waste treatment works. pp. 19832-36
36. INFLATION. Rep. Curtis criticized the administration for "refusing to shoulder its share of the burden of fighting inflation..." pp. 19824-5
Rep. Harvey, Ind., inserted an article, "Letting Inflation Inflate." p. 19825
37. WATER RESOURCES. Rep. Saylor criticized the handling of the Nation's water resources and inserted a Library of Congress compilation showing the many agencies involved in dealing with water resources. pp. 19849-58

Legislation will not prevent tragedy. Everyone knows that. But it will reduce the unlawful acquisition of guns, and their use by mad persons and hardened criminals. Most states have no strict laws against the purchase of guns, but some do, and it would be wise if the majority would enact similar legislation at once.

Last March, the President asked for legislation curbing mail-order sales. In May, Senator Dodd's subcommittee presented the bill which Mr. Johnson approved, yet today, it is sleeping in the Senate Judiciary committee.

Majority Leader MIRE MANSFIELD told Senator Dodd to push hard for his bill and Senator EVERETT MCK. DIRKSEN, minority leader, expressed the need for such legislation. Other Senators, of both parties, committed themselves to its support. Others said, weakly, that it was deplorable to trade on aroused emotions.

Now we have the President's word that he is going to press for enactment. The nation needs action now before another deranged person will have the opportunity to acquire an arsenal of death through the U.S. mails.

[From the Danbury News-Times,
Aug. 5, 1966]

CONTROL OF GUN SALES IS NEEDED

This week's tragedy on the campus of the University of Texas is further evidence of the need for stronger state legislation on the sale of guns and for effective federal legislation governing the mail order sale of guns.

The bill proposed by Sen. Dodd of Connecticut to put controls on the mail order and over-the-counter sale of firearms has been before the Senate Judiciary Committee since May, with no indication of when it will be cleared for Senate action.

The so-called gun lobby is a powerful bloc. It has worked to prevent congressional action for many months, ever since the assassination of President Kennedy.

It is about time that Congress takes action. If the Dodd Bill is too strong or too weak, then it should be properly amended.

Then this bill, or one more acceptable, should be enacted.

We agree with President Johnson that a gun control law might not prevent all such tragedies as the one in Austin.

And we do agree with him that there should be restrictions on the sale of firearms "to those who cannot be trusted in their use and possession."

Furthermore, we ask with him, "How many lives might be saved as a consequence?"

[From the Danbury News-Times, Aug. 11, 1966]

EFFECTIVE GUN LAWS ARE NECESSARY

The Second Amendment of the U.S. Constitution is not nearly so well known as other articles in the Bill of Rights. It reads:

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

As a reading of the entire article shows, it concerns the militia, or as we know it today, the National Guard. In time of war, when the National Guard has been mobilized, the duty of the militia has devolved upon the State Guard.

Because the second half of the article has to be read in the context of the entire article, we disagree with one of today's letter writers who asserts that federal firearms regulations would interfere with the constitutional rights of all American citizens.

We find nothing in the article which prevents the federal government from adopting suitable and effective legislation controlling the sale of guns by mail or across state lines.

Nor do we hold with another letter writer that newspapers "scream" about stricter gun

laws in the expectation of selling more papers. For all we know, our stand on effective gun legislation may have cost us the sale of a paper or two.

We do say that if there had been effective federal legislation in 1963, Lee Harvey Oswald might not have so easily obtained the mail order gun with which President Kennedy was assassinated.

We do say, too, that the recent tragedy in Texas emphasizes the need for legislation which will make it less likely that guns will find their way into the hands of juveniles, psychopaths and others who do not have the sense of responsibility which should go with their possession.

We have called for proper gun legislation when there's been a public outcry about guns and when there has been public silence.

If the country does not get legislation which is properly restrictive, then the day will come when it gets legislation which is overly restrictive.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FAIR LABOR STANDARDS AMENDMENTS OF 1966

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The bill will be stated by the clerk.

The LEGISLATIVE CLERK. A bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate resumed the consideration of the bill.

Mr. YARBOROUGH obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator yield, without losing the floor?

Mr. YARBOROUGH. I yield.

Mr. MANSFIELD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KUCHEL. Mr. President—

Mr. MANSFIELD. Mr. President, the Senator from Texas has the floor.

Mr. KUCHEL. Mr. President, will the Senator from Texas yield to me?

Mr. YARBOROUGH. I yield to the distinguished Senator from California.

Mr. KUCHEL. Mr. President, I have an amendment, which I am told by the chairman will be accepted; and I wonder if my able friend the Senator from Arizona, whose amendment is pending, will consent that my amendment be called up. It will only take a moment or two.

Mr. FANNIN. I have no objection.

Mr. KUCHEL. Mr. President, I ask unanimous consent that the amendment

of the Senator from Arizona be temporarily laid aside, and that the Senate proceed to the consideration of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KUCHEL. I send my amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 61, insert between lines 10 and 11, as a section 307:

"Sec. 307. Subsection (d) of section 4 of the Act, as amended, is amended by adding at the end of the subsection the following:

"The Secretary of Labor, after consultation with the Secretary of Defense and the Secretary of State, shall (1) undertake a study with respect to (d) wage rates payable to Federal employees in the Canal Zone engaged in employment of the kind described in paragraph (7) of section 202 of the Classification Act of 1949 (5 U.S.C. 1082(7)) and (b) the requirements of an effective and economical operation of the Panama Canal, and (2) report to the Congress not later than July 1, 1968, the results of his study together with such recommendations as he may deem appropriate."

EXTENSION OF MINIMUM WAGE COVERAGE TO CERTAIN EMPLOYEES IN THE PANAMA CANAL ZONE

Mr. KUCHEL. Mr. President, since its construction in the administration of Theodore Roosevelt, the Panama Canal has been a vital artery for the commerce of the Pacific coast of the United States. In 1965, 5,823,000 long tons of cargo were carried between the ports of our eastern and western coasts through the canal, and 6,882,000 long tons were carried between west coast ports and Europe. I believe it is fair to say that no achievement since the construction of the trans-continental railroad has so immediately improved the economic relations of my State of California with the great industrial centers of the eastern seaboard. Even in this modern age, there remains heavy industrial products that cannot be economically transported, or indeed transported at all, except by water. The recent disruption of airline travel has underscored the basic truth that despite advancements in modern conveyance it is still 3,000 long miles across this continent. Our vital national communications remain heavily dependent on the Panama Canal.

Section 306 of H.R. 13712, as reported by the Senate Committee on Labor and Public Welfare, would extend national minimum wage coverage at rates equivalent to those applied in the continental United States to 12,400 employees in the Panama Canal Zone who maintain and operate the Panama Canal. Of these employees, 10,400 are residents of the Republic of Panama whose incomes are earned chiefly from the revenues of the canal and expended in the economy of the Republic.

There are 7,300 employees of the Panama Canal Company and the Canal Zone Government who now receive wages well over \$1.60 an hour. Almost all of these are citizens of Panama. The Department of the Army estimates that the gross cost of annual wage increases required under this bill by February 1, 1971, may run as high as \$13 million.

Operating expenses of the Panama Canal Company for the year ending June 30, 1965, were \$118,806,000. Since the overwhelming burden of the increased cost would be borne by the Company and its related activities, it is fair to estimate that the increase in wages will raise operating expenses of the Panama Canal by nearly 10 percent in the next 10 years. The Department of the Army estimates that a portion of the costs extending minimum wage coverage can be recovered from sources of income other than canal tolls and that barring unforeseen expenses anticipated revenues should cover operating costs over the next several years without a toll increase. For the sake of this vital waterway, I hope this turns out to be the case.

Mr. President, I ask unanimous consent that at the conclusion of my remarks a letter addressed to me by the Secretary of the Army be inserted in the RECORD.

Both in terms of sound wage policy and of our great national interest in maintaining the Panama Canal, however, I have grave doubts about the wisdom of extending coverage in this instance:

First, the economic situation in the Canal Zone is greatly different from that in the continental United States and other island territories which might be covered under this act. The present bill continues the policy of exempting the Virgin Islands and Puerto Rico from the national minimum wage levels of the continental United States in order that their economies may be protected against an unduly rapid increase in production costs.

The Canal Zone is different again from the islands of Puerto Rico and the Virgin Islands because it is closely related with the economy of the Republic of Panama where the minimum prevailing wage has been estimated at as little as \$0.42 per hour—roughly one-fourth of the national minimum wage of \$1.60 to be established by this act.

The economics of the proposed extension of minimum wage coverage to the Canal Zone are questionable, if only because it will set up a built-in wage differential among citizens of the Republic of Panama—a differential, Mr. President, which may serve to exacerbate the tensions between the zone and the Republic. I doubt that it is sound minimum wage policy to create a system of wage discrimination.

Mr. President, I ask unanimous consent to have included in my remarks a table showing the composition of the work force.

Second, the primary national interest of the United States in this area is the maintenance and operation of the Panama Canal. This is paramount above all other considerations. The Department of the Army states that under ideal conditions it will be able to proceed with the minimum wage increase and not increase canal tolls, provided there are no serious additional increases in operating expenses. It might be, however, that the burden of this increase in wages will require a reduction in services and a cutback in the critically important capital

improvement program, which includes the widening and deepening of the canal waterway. At this point whether for operation or investment it is not clear how all of these costs will be met. The Congress may well be called upon to appropriate funds to secure the continued and efficient operation of the canal.

I propose in this amendment that the operation of the minimum wage law is provided for in the pending bill be subjected to a thorough study by the Department of Labor, in consultation with the Departments of State and Defense, and that the Secretary of Labor report to Congress not later than July 1, 1968, to advise on the effects of this legislation on wage rates, on the operation of the canal, and on U.S. relations with the Republic of Panama; and to propose any revisions in the law to Congress which may, in his opinion, be necessary to achieve sound and economic operation of the canal.

I ask unanimous consent that a letter addressed to me from the Department of the Army, dated August 24, 1966, together with a table showing the employees affected, be printed in the RECORD at this point.

There being no objection, the letter and the table were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE ARMY,
Washington, D.C., August 24, 1966.

Hon. THOMAS H. KUCHEL,
U.S. Senate

DEAR MR. KUCHEL: This is in reference to your request for an analysis of the fiscal effect on the Panama Canal Company and Canal Zone Government of section 306 of H.R. 13712, as amended by the Senate Committee on Labor and Public Welfare, with particular reference to possible effect of the section on Panama Canal tolls.

H.R. 13712 amends the Fair Labor Standards Act to extend its protection to additional employees and to increase the minimum wage of covered employees. The minimum wage provisions of the FLSA are now expressly applicable in the Canal Zone. At the present time, however, the Act is applicable only to the some 2,400 private employees in the Zone. In the Canal Zone, as elsewhere, the Act presently has no application to Government employees, of whom there are some 18,000 in the Canal Zone.

As the bill passed the House its effect in the Canal Zone would have been to increase the minimum hourly wage of some 2,400 employees of private firms from \$1.25 to \$1.40 in 1967 and from \$1.40 to \$1.60 in 1968. Inasmuch as many of the privately employed persons in the Canal Zone are employed by contractors on contracts with the Panama Canal Company and Canal Zone Government these increased wage costs can be expected to increase contract costs of the Panama Canal and Canal Zone Government by about \$420,000 in 1967 and \$560,000 in 1968.

Section 306 of H.R. 13712, as the bill passed the House, would have made the minimum wage provisions of the FLSA applicable to certain employees of the Federal Government and of non-appropriated fund activities in the 50 States and the District of Columbia only.

As amended by the Senate Committee the coverage of section 306 was extended to include certain outlying possessions, including the Canal Zone, so that for the first time certain employees of Government agencies and of non-appropriated fund activities in the Canal Zone would be subject to the minimum wage provisions of the Act.

In the Canal Zone a wage system for Gov-

ernment employees has been established to meet the obligations of the United States under Item 1 of the Memorandum of Understandings Reached which accompanied the 1955 treaty between the United States and the Republic of Panama. One of the principal features of that system is the relation of basic rates of pay for certain grade levels to locality rates rather than to rates of pay in the United States.

These local Canal Zone rates are in general substantially in excess of rates for similar employment in the Republic of Panama. The minimum wage for employees of Federal Agencies in the Canal Zone is 85¢ an hour compared to minimum rates of 42¢ and 62¢ in the rural areas and principal cities, respectively, in the Republic of Panama.

Under the Senate Committee amendment of section 306, the minimum wage coverage of the FLSA would be extended to some 7,300 employees of the Panama Canal Company and Canal Zone Government now receiving less than the \$1.60 an hour, substantially all of whom are Panamanian citizens. Of this group, 5,460 employees receive less than \$1.40 an hour, and 882 receive less than the \$1 an hour. The Committee amendment would treat these employees as newly covered under the minimum wage provisions so as to increase the minimum wage payable to \$1.00 an hour in 1967 and thereafter in annual increments of 15¢ an hour until the rate of \$1.60 is reached in February 1971.

Depending on the pattern of increases throughout the whole wage schedule which would prove necessary on full study, the gross cost of the increases would average from \$1.9 to \$2.6 million a year from February 1, 1967 through February 1, 1971. The annual gross cost as of the latter date is estimated at from \$9.4 to \$13 million. Of this amount some 40 to 50 percent could be recovered through increases in charges to American citizen employees and others for goods and services, as well as in charges for ancillary services (such as tugboat and line-handling charges) to shippers using the Canal; so that the net increased annual cost to the Company as of February 1, 1971 is estimated at a total of about \$5 to \$6 million in yearly increments of about \$1.2 to \$1.5 million.

Estimates of the financial results of operation of the Panama Canal Company and Canal Zone Government over the next several years indicate that the net cash inflow from operations will approximately equal operating expenses, including the proposed increase in minimum wage levels, and requirements for funding essential capital plant replacements and improvements.

These estimates are based on assumptions that:

(1) The existing trend of increased traffic moving through the Canal will continue through FY 1971;

(2) No other exceptional increases in expenses or reduction in revenues will occur; and

(3) It will prove possible to secure needed additional electric power generating capacity from the Republic of Panama or other outside sources.

If either or both of assumptions (1) and (2) proved to be invalid, and operating expenses of the Company, including the increased payroll expense resulting from the amendment of section 306, exceeded income from tolls and other sources, then under the tolls formula now provided by the law the Company would necessarily be required to increase tolls. The amount of the increase would be determined by the amount of the difference between operating expenses and revenue. At current levels of traffic an increase of 1¢ a vessel ton (Panama Canal measurement) would produce about \$830,000 in additional revenue.

Should assumption (3) prove to be invalid and additional capital expenditures be

required for electric power generating facilities (or other capital items not included in current minimum projections), the Panama Canal Company would necessarily have to request appropriations for the cost of such items or reduce the scope of the capital program below current minimum projections. The amount of such appropriations would be added to the net direct investment of the United States in the Panama Canal on which the Company pays annual interest charges to the United States Treasury at rates determined annually by the Secretary of the Treasury, currently 3.655%. Such interest payments would, of course, *pro tanto* increase operating costs that must be recovered from tolls and other revenue.

All the projections discussed above are

Canal Zone employees affected by U.S. minimum wage compared with total gainfully employed in the Republic of Panama

Category of employees	Approximate number	Current minimum wage	Place of residence
Private firms in Canal Zone	2,200	\$1.25	Republic of Panama.
Panama Canal Company/Canal Zone Government and military agencies.	2,000	.85	Canal Zone.
Panama Canal Company/Canal Zone Government and military agencies.	10,300	.85	Republic of Panama.
Nonappropriated fund employees of military agencies.	1,000	.85	Do.
Total gainfully employed, Republic of Panama (1961 estimate).	300,000	\$0.42- .62	Do.

Mr. KUCHEL. I am glad to say that I have discussed my amendment with my able friend from Texas, the manager of the bill, who concurs that a study such as provided for in this amendment would be in the public interest.

Mr. YARBOROUGH. Mr. President, we accept the amendment offered by the distinguished senior Senator from California. An amendment was adopted in the committee that made the minimum wage provisions applicable to Federal employees in the Panama Canal Zone. Later, in the course of the committee's discussions, that amendment was modified to provide that the newly covered workers rates should apply instead of the present higher rates. So the workers in the Canal Zone, under the amended bill reported by the committee, would be covered by the newly covered workers provisions, providing a minimum wage of \$1 next February, not less than \$1.15 a year later, and so on.

Should that wage scale prove disadvantageous, this study would be completed in sufficient time to give Congress an opportunity to reconsider what is basically a 4-year wage scale.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. KUCHEL. Mr. President, I move to reconsider the vote by which the amendment was agreed to; and I am sure that my able friend, the Senator from Texas, will move to lay that motion on the table.

Mr. YARBOROUGH. I move to lay that motion on the table.

Mr. ROBERTSON. Mr. President, will the Senator from Arizona yield to me?

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

based on treatment of Government employees in the Canal Zone as "newly covered" employees under section 6(b) of the Fair Labor Standards Act, as now provided by section 306 of H.R. 13712 as reported by the Senate Committee. If such employees were treated as presently covered so as to be entitled to minimum wage rates of \$1.60 within one year from the effective date of the Act, a tolls increase and appropriations for capital expenditures would almost certainly be required at that time.

The Bureau of the Budget has advised that there is no objection to the submission of this letter to you.

Sincerely,

DAVID E. MCGIFFERT,
Under Secretary of the Army.

Mr. MANSFIELD. Now what is the pending business?

The PRESIDING OFFICER. The Senate will now return to the consideration of the amendment of the Senator from Arizona [Mr. FANNIN].

Mr. ROBERTSON. Mr. President, will the Senator from Arizona yield to me, so that I may call up a relatively minor amendment, which I trust the manager of the bill may be willing to accept?

Mr. FANNIN. I yield.

Mr. ROBERTSON. Mr. President, I ask unanimous consent that the amendment of the Senator from Arizona be temporarily laid aside, and that the Senate proceed to the consideration of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTSON. Mr. President, all of us are interested in recreation. We spend millions of dollars for recreational purposes each year. The pending bill very properly gives some exemption from the wage and hour provisions to recreational hotels.

In Bath County, in my State of Virginia, we have one of the finest recreational hotels in the South, and it is the only enterprise they have in the county. It has not one golf course, but three, the Cascade course being one of the finest in the Nation. It has the finest riding horses and bridle paths anywhere in the South. It has tennis courts. It has 10 miles of privately stocked fishing waters. In the winter, it has skiing. It is a year-around resort facility. I do not know of any resort anywhere that has as many recreational facilities as the Homestead at Hot Springs. It also has a skeet range. One can find there almost any type of recreation.

They have to operate all the year around, because if they do not keep their trained workers employed, they could not open up again when the busy season comes.

So the amendment that I wish to offer,

I think in this connection, is in full keeping with the bill and with the policy of the National Government. This amendment, I might say, has the approval of the distinguished Senator from Arizona [Mr. FANNIN], the distinguished Senator from Georgia [Mr. TALMADGE], the distinguished Senator from Mississippi [Mr. STENNIS], and it has the approval of my junior colleague [Mr. BYRD].

Mr. JORDAN of North Carolina. It also has the approval of the junior Senator from North Carolina.

Mr. ROBERTSON. And of other Senators. In order to be fair, not to tourist hotels, not to hotels in any of the cities, not to hotels in industrial areas, but to a resort hotel which can qualify as a recreational institution, we propose this change, just to be fair about it and to carry out what I think is the national policy:

On page 41, line 3, delete "average receipts for any 6 months" and insert in lieu thereof "actual receipts for any 5 months."

That gives them a little more favorable break, because if you average the top to count this 33 percent which they must count, every time you will throw improper receipts into the off period. So let us be fair about it, and just charge them with what they are actually getting. This amendment was framed with reference to the recreational concessions in the national parks.

I do not think any of them operate for 7 months. Most of them only operate for 4 or 5 months. Six months is a fair period for any recreational opportunities. So we provide "actual receipts for any 5 months." We then provide for "the actual receipts for the other 7 months."

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield.

Mr. DOUGLAS. Mr. President, was it about the Homestead Hotel that Sarah Cleghorn wrote:

The golf links lie so near the mill
That almost every day
The laboring children can look out
And see the men at play.

Mr. ROBERTSON. I do not know about that. However, they do have three golf links, and the Cascade Golf Links is where Sammy Snead was taught. We are rather proud of Sammy Snead.

In addition to golf links, we have practically everything there in the way of recreation.

The amendment would take care of the few facilities of this kind in the country that are truly recreational.

They are not convention or city hotels. They are located in rural areas.

This resort is the only business in the little mountain county of Bath. The same thing is true in my own county of Rockbridge. We have one hotel located there.

This amendment would take care of the recreational hotels.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield.

Mr. FANNIN. Mr. President, I support the amendment of the senior Senator from Virginia. The recreational hotels about which he is speaking are in competition with hotels in Bermuda

and offshore islands. These offshore island hotels are not in a position in which they must pay high wages. They pay substantially lower rates of pay.

It would be very unfair to the resort hotels in this country if, under the pending bill, they were required to pay rates that are being paid by city hotels. The hotels do not all operate under the same competitive conditions.

The amendment of the senior Senator from Virginia is a very worthwhile and commendable amendment.

Mr. ROBERTSON. Mr. President, I thank the Senator.

We are only asking that the manager of the bill take the amendment to conference. The amendment is in line with the House provisions. In fact, this amendment is a little less liberal than the House provision.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield.

Mr. JORDAN of North Carolina. Mr. President, I support the amendment of the Senator from Virginia. I know what the Senator is talking about.

North Carolina has some famous resorts at Pinehurst and Grove Park at Asheville. We have many other resorts.

It has gotten to the place at which the rates are too high and it is cheaper to fly to Bermuda and other resorts. The resorts located in our country would have to raise the price and as a result would not have the guests.

Mr. ROBERTSON. It would be legislating unemployment.

Mr. JORDAN of North Carolina. I support the amendment of the Senator from Virginia and hope that the distinguished Senator from Texas will accept the amendment.

Mr. ROBERTSON. Mr. President, I send to the desk my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 41, line 3, delete "average receipts for any six months" and insert in lieu thereof "actual receipts for any five months." On page 41, line 5, delete "average receipts for the other six months" and insert in lieu thereof "actual receipts for the other seven months."

Mr. YARBOROUGH. Mr. President, the Senate committee did not change this provision in the bill, although there has been reference to indicate that the Senate committee changed the provision. This is a provision of the bill that came over from the House. The section to which the distinguished Senator refers does not include hotels. This section refers to amusement parks like Glen Echo. It refers to an amusement park which is open in the summer or in the winter. The section has no application to hotels.

I want the language clarified. I am not saying that I will agree to take the amendment to conference, but if we should take the amend to conference, I would not want the RECORD to show that an amendment to that section of the bill applied to hotels.

The section to which the Senator refers applies only to amusement and recreational establishments. The legisla-

tive history shows that the language means amusement parks.

In reference to the competitive situation mentioned by the Senator from Arizona, people do fly to these resorts. The representatives of the hotel industry, the majority of those testifying, want this provision applied to all hotels. They say that, with planes and with good highways, there are no remote hotels. National conventions are held in the so-called resort hotels.

I am not taking a position on this, but I am stating what the competitive position is.

The resort hotels already have many attractions to offer. They are located at the seashore and in the mountains.

The majority of the representatives of the hotel industry said:

Let the resort hotels pay the standard wages. If they are permitted to pay substandard wages, and we must pay higher wages, we will be destroyed. We will have to turn our hotels into homes for the aged.

I am referring to the debate that was had in the other body. Testimony was given before the House committee. We also heard testimony on this subject.

The majority of the representatives of the industry wanted to have the same minimum wage law applied to all hotels wherever they were located. They said that, with modern airplanes and helicopters, people can get to any hotel. The so-called remote hotels are competing not only for resort trade, but also for major conventions.

I point out that the hotels are brought under the minimum wage law for the first time in this bill. They are exempt from overtime provisions.

In a resort hotel at Shenandoah, Hot Springs, the Louisiana coast, or some other seacoast area, if the employees work 12 hours a day and they have two shifts for a certain job, there is still no provision for overtime over 8 hours a day. The hotel is required to pay only so much an hour.

The hotels have received favorable consideration in the pending bill in that no overtime provisions are applicable. The hotels can pay the minimum wage without overtime.

I suggest to the distinguished Senator that, since the section would not apply to hotels, but only to amusement parks, he withhold his amendment.

Mr. ROBERTSON. Mr. President, if the manager of the bill is not willing to accept the amendment at this time, I will withhold it.

I asked permission to offer the amendment at this time on the assumption that it would be accepted. The amendment was offered to that section of the bill because the manager of the bill on the House side said that section 201 would include recreational hotels. We thought he knew what was in the bill that he was handling.

Mr. YARBOROUGH. Mr. President, I feel, since this has been gone into so thoroughly and since the section to which the distinguished Senator offers his amendment does not apply to hotels, that the amendment is not applicable.

If that section applied to hotels, and we accepted it on that theory, then we

would have thrown two provisions of the law into conflict and brought almost inextricable confusion into the law.

Under those circumstances, I am regretful to say to my friend, the Senator from Virginia—who is my personal friend and a great Senator—that I cannot accept the amendment. I consider the Senator from Virginia one of the two greatest orators in the Senate, but I regret to say that I cannot accept this amendment. I would like to accept it, but cannot do so under the circumstances.

Mr. ROBERTSON. Mr. President, I appreciate the tribute that has been paid to me.

I admit that I am no expert on this type of legislation. It has always been a very technical matter. I have never been satisfied with the way in which it was handled. I am not prepared to say that the amendment is offered to the wrong section.

The reason the amendment was offered to section 201 is that the manager on the House side said that the section included the recreational hotels. I will check again on that language.

If I can convince the manager of the bill that the amendment is offered to the right section, will he accept the amendment if it is the intention of the House that that language should apply?

The questions were raised by Representative UDALL to protect recreational hotels in Arizona.

Mr. YARBOROUGH. Mr. President, I say frankly that a bigger question with us than the number of months or the amounts contained in the amendment is that section 3 of the bill from line 24 on page 40 to line 6 on page 41 has been uniformly interpreted as not applying to hotels, but only to amusement parks and recreational areas. It has been interpreted as not being applicable to hotels of any type.

More serious than the text of the amendment that the Senator offers, and how the receipts would be averaged with respect to an amusement park, is the statement that we would bring hotels under that section. They are not under that section, as our committee has interpreted the law and as the counsel for the committee has interpreted the law. For the first time, we would draw a dividing line between hotels, and exempt one hotel and not exempt another hotel a few miles away. If a hotel were moved out of the city and away from city taxes, it would be exempt from the law.

Mr. ROBERTSON. It gives a recreational hotel in Bath County, Va., which operates 12 months in a year, equal treatment with a concession in Arizona or some national park, which operates only 6 months in the year. If the average is taken for the peak and put in the off-season area, they could not qualify under the one-third provision. But these concessions do not operate more than 4, 5, or 6 months in a year. A hotel that wants to operate 12 months of the year would be put out of business.

Mr. YARBOROUGH. The hotels are exempt from overtime by this provision. If a hotel works long hours and works

its employees 16 hours a day, with no overtime—

Mr. ROBERTSON. This is beyond the overtime. This would add greatly to what they must pay.

The manager of the Homestead showed me a fine group of colored waiters in the dining room. He said:

I recruited them. I trained them. I doubt if one has a high school education. Those boys are now making \$150 a week as waiters in this dining room.

Mr. YARBOROUGH. At the mini-wage, they would be required to pay only \$40 a week, for 8 hours a day.

Mr. ROBERTSON. If the minimum wage made them raise their general rates to the point where they lost a lot of customers to Bermuda and Jamaica, those boys would not be in the dining room. You would legislate them out of business.

Mr. YARBOROUGH. If they worked 80 hours a week, the minimum wage would be \$80.

Mr. ROBERTSON. Those waiters sing spirituals on Sunday mornings and wait on tables. They do not come in to look at empty chairs. You will legislate them out of a job.

Mr. YARBOROUGH. If they kept that dining room open 16 hours a day, 7 days a week, that would be 112 hours. If they average \$150 a week now, this law would not affect them. They could work 16 hours a day, 7 days a week, and with the law at a dollar an hour, if they are making \$150 a week, I do not see why they are worrying about this law.

Mr. ROBERTSON. I remember a time during the depression when they had more employees at the hotel than they had guests. The question is not what the waiters are to be paid or what they receive. The question is whether the hotel can stay open and maintain a full corps of waiters to wait on the guests. These hotels have to compete with the hotels at the offshore islands. The jets fly people there quickly.

Mr. YARBOROUGH. I am not stating the case for either group of hotels but we have considered this in the committee.

The hotels in the cities say that the resort hotels take business away from them. One can shoot a rifle down the main street on a Sunday and not hit an automobile. The owners of hotels in the cities claim that the people go to the resort hotels because of the rapid transportation made available by jet planes and the highways.

The distinguished Senator has been building a wonderful highway system, and the people go to the mountains and the beaches, where the hotels do not have to pay city taxes. If we drew two kinds of wage structures and required a hotel in the city to pay one wage structure and a hotel at the mountains or the beach to pay a lower wage structure, the latter hotel would have a greater competitive advantage and could out-bid the city hotel on conventions.

Mr. ROBERTSON. I thank the Senator.

(At this point Mr. RUSSELL of South Carolina assumed the chair.)

Mr. COTTON. Will the Senator yield?

Mr. YARBOROUGH. I yield.

Mr. COTTON. In my State, we have resort hotels, as well as other types of hotels, of course. I find myself considerably in sympathy with the sentiments expressed by the distinguished Senator from Texas about drawing distinctions between hotels—seasonal and regular.

But in studying the report and the way that the hotel problem was handled, the Senator from New Hampshire finds himself in a quandary. The interest that the Senator from New Hampshire has in this is not to draw any distinction between the types of hotels, but to determine whether a distinction can be made and provided for as among seasonal employees.

The Senator from New Hampshire foresees that if those employees must be compensated under the minimum wage law, if they must receive the compensation that is paid to professional, experienced waiters, it simply means that those students will be deprived of employment, because the hotel could not afford to give them that employment.

Mr. YARBOROUGH. I point out to the distinguished Senator that in many of those cases the students in these resort areas obtain food and lodging. In computing the minimum wage of \$1 an hour, that food is considered a part of the wages, if their meals are furnished. If they are furnished a room—whether it be at a motel or a hotel or some other type of resort area, where they furnish lodgings for these students, as they often do, in the case of summer employment in these areas—that is counted as part of the wages.

So that the requirement that they be paid \$1 an hour means that the value of the food and lodging is computed, and the value of whatever else is furnished. Then the employer would be required to pay enough to bring the wage up to \$1 an hour. But he would not be required, under this bill, to pay a dollar an hour in addition to room and board. In most of these areas, room and board are important.

Mr. COTTON. I thank the Senator from Texas. I should like to trespass on his patience and go a little further afield, because I am trying to resolve my own doubts about some aspects of the bill.

President Franklin D. Roosevelt, when he submitted the first Federal minimum wage law, stated that, in his opinion, it should apply to those who worked in factories. I find that in representing a State composed of comparatively small communities—that is, having no huge metropolitan areas—there is a danger of depriving worthy persons of employment if the act is extended to smaller service and mercantile establishments.

For instance, I have in mind a small department store in the county-seat town where I live. A number of elderly widows who are not too well provided for, and who need to supplement their earnings, work for a certain number of hours a day in the ladies' department of the store. If the minimum wage were applied to that situation, the store, of course, would have to dispense with their services and hire one or two professional

or experienced clerks to work regular hours and receive the regular wage.

In the same way, I have observed elderly men working on shrubbery around the local hotel or perhaps around roominghouses. They do light work for a few hours a day to supplement their income. I can see how many of those persons would be deprived, as I fear students might be deprived, of opportunities for employment.

I really had reached the point where I was prepared to vote for the bill if I were satisfied its coverage was not so far extended as to actually deprive worthy people of light and part-time employment, and thereby working a hardship on many such people. I would like to have the reaction of the Senator to my concern on that point.

Mr. YARBOROUGH. I want to say to the distinguished Senator from New Hampshire [Mr. Cotton] that I feel that his fears of unemployment of students was well expressed by him, but I do not feel that there is a danger that students will lose employment for the summer. Their productivity is high and their energy is great. I am sure that the Senator has had the experience which I have had with the summer interns.

The average student, who is 20 to 21 years of age, is so much better educated than the student of 20 to 21 years of age in my generation that it is a different kind of person with whom to deal. I do not believe there is danger of unemployment of students in the minimum wage bill. They are going to be earning more than is provided in the minimum wage.

Now, with respect to the elderly, I do have concern because as their productivity goes down—many work for sub-marginal wages—there is some danger there.

If a big establishment is involved, they do not use elderly people. They are in such a competitive position they want people who can work harder and longer. But in the small establishment which the Senator mentions there is an exemption in the law.

In the first year after the effective date of the law, if the gross income is less than \$500,000 a year they are exempt from the provision. Thereafter, if the gross income is less than \$250,000 a year they are exempt. Not counting Sundays, with that gross income, the exemption amounts to about \$800 a day in gross income. It takes a good sized establishment, whether it be a retail establishment or an operation of any kind, to take in over \$800 a day.

The probabilities are that if the establishment is that big, they hire people with great productivity.

Mr. COTTON. I am not sure, with present prices going up, that an establishment has to rival Sears, Roebuck in size to be taking in \$800 a day. In many middle-sized communities that situation would prevail.

Mr. DOUGLAS. Under Democratic prosperity.

Mr. COTTON. I shall not go into that. I am interested now in the humanitarian side of the picture.

Mr. YARBOROUGH. I commend the Senator for walking across the aisle. We are together on this.

In the Committee on Aging we are studying this problem. I share the Senator's concern. If we are going to eliminate jobs for aging, this problem will receive further consideration.

With respect to the concern of the Senator about resort places, I had the privilege of serving for 7 years with the Senator on the Committee on Commerce. A part of our work was to build up tourism in America and stop the outflow of gold. I share the Senator's concern. We do not want to price tourist attractions out of the market domestically or in the foreign field.

I think that this exemption for recreational parks would come under that provision, with special consideration for the ski lifts, but all hotels were left on the same basis. No overtime applies to the hotel.

Mr. COTTON. I will not say that I am entirely satisfied, but I shall not take the time of the Senator at this point.

Mr. DOUGLAS. Mr. President, would the Senator object if I paid him a compliment? I have listened to this discussion for the last 40 minutes and I think that his manner and conduct well exemplifies the Latin phrase "suaviter in modo, fortiter in re." "Suave and considerate in personal dealings; brave in the affairs of life."

When I heard the Senator from Texas deal with our dear friend from Virginia I realized once again that he possessed "suaviter in modo" to an extraordinary degree. We have always known the bravery and strength of the Senator from Texas and he is once again demonstrating that.

Mr. YARBOROUGH. Mr. President, I appreciate the tribute from the distinguished Senator from Illinois [Mr. DOUGLAS], which is not deserved. I feel that because we have only gone a little into this bill I do not know what he has in store later.

Mr. ROBERTSON. Mr. President, I ask unanimous consent that my amendment previously sent to the desk, germane to section 201 of the bill, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is as follows:

On page 41, line 3, delete "average receipts for any six months" and insert in lieu thereof "actual receipts for any five months".

On page 41, line 5, delete "average receipts for the other six months" and insert in lieu thereof "actual receipts for the other seven months".

Mr. ROBERTSON subsequently said: Mr. President, I ask unanimous consent to have printed in the RECORD immediately after the amendment which I previously offered today to H.R. 13712, the following substitute to make it abundantly clear that the exemption of recreational activities would include those of a hotel operated primarily for recreational purposes.

There being no objection, the amendment (No. 773) was ordered to be printed in the RECORD, as follows:

On page 40, line 25, after the comma insert the following: "including any hotel patronized by a majority of its guests primarily for recreational purposes,".

On page 41, line 3, strike out "average" and substitute "actual".

On page 41, line 3, strike out "six" and substitute "five".

On page 41, line 5, strike out "average" and substitute "actual".

On page 41, line 5, strike out "six" and substitute "seven".

ORDER OF BUSINESS

Mr. SPARKMAN. Mr. President, I wish to call up the conference report on the mass transit bill, S. 3700.

Mr. ROBERTSON. Mr. President, I ask unanimous consent that my amendment to section 201 be temporarily laid aside with the understanding that I may call it up later, if I am so advised, and that when we dispose of the conference report the business before us will be the original business on which we started this debate; namely, the amendment of the Senator from Arizona [Mr. FANNIN].

The PRESIDING OFFICER. Is there objection? The Chair hears no objection and it is so ordered.

URBAN MASS TRANSPORTATION ACT OF 1964 AMENDMENTS—CONFERENCE REPORT

Mr. SPARKMAN. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3700) to amend the Urban Mass Transportation Act of 1964. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report, as follows:

CONFERENCE REPORT (H. REPT. No. 1869)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3700) to amend the Urban Mass Transportation Act of 1964, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

"AUTHORIZATION

"SECTION 1. (a) The first sentence of section 4(b) of the Urban Mass Transportation Act of 1964 is amended by striking out '\$150,000,000 for fiscal year 1967' and inserting in lieu thereof '\$150,000,000 for each of the fiscal years 1967, 1968, and 1969'.

"(b) Section 6(b) of such Act (redesignated section 6(c) by section 3 of this Act) is amended by striking out 'and to \$30,-

000,000 on July 1, 1966' and inserting in lieu thereof to '\$30,000,000 on July 1, 1966, to \$40,000,000 on July 1, 1967, and to \$50,000,000 on July 1, 1968'.

"ASSISTANCE FOR CERTAIN TECHNICAL STUDIES AND TRAINING PROGRAMS

"SEC. 2. (a) The Urban Mass Transportation Act of 1964 is amended—

"(1) by redesignating sections 9 through 12 as sections 12 through 15, respectively; and

"(2) by inserting after section 8 the following new sections:

"GRANTS FOR TECHNICAL STUDIES

"SEC. 9. The Secretary is authorized to make grants to States and local public bodies and agencies thereof for the planning, engineering, and designing of urban mass transportation projects, and for other technical studies, to be included, or proposed to be included, in a program (completed or under active preparation) for a unified or officially coordinated urban transportation system as a part of the comprehensively planned development of the urban area. Activities assisted under this section may include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications, and (3) other similar or related activities preliminary to and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities, and equipment. A grant under this section shall be made in accordance with criteria established by the Secretary and shall not exceed two-thirds of the cost of carrying out the activities for which the grant is made.

"GRANTS FOR MANAGERIAL TRAINING PROGRAMS

"SEC. 10. (a) The Secretary is authorized to make grants to States, local bodies, and agencies thereof to provide fellowships for training of personnel employed in managerial, technical, and professional positions in the urban mass transportation field. Fellowships shall be for not more than one year of advanced training in public or private non-profit institutions of higher education offering programs of graduate study in business or public administration, or in other fields having application to the urban mass transportation industry. The State, local body, or agency receiving a grant under this section shall select persons for such fellowships on the basis of demonstrated ability and for the contribution which they can reasonably be expected to make to an efficient mass transportation operation. Not more than one hundred fellowships shall be awarded in any year. The grant assistance under this section toward each such fellowship shall not exceed \$12,000, nor 75 percent of the sum of (1) tuition and other charges to the fellowship recipient, (2) any additional costs incurred by the educational institution in connection with the fellowship and billed to the grant recipient, and (3) the regular salary of the fellowship recipient for the period of the fellowship (to the extent that salary is actually paid or reimbursed by the grant recipient).

"(b) Not more than 12½ per centum of the fellowships authorized pursuant to subsection (a) shall be awarded for the training of employees of mass transportation companies in any one State.

"(c) The Secretary may make available to finance grants under this section not to exceed \$1,500,000 per annum of the grant funds appropriated pursuant to section 4(b).

to acquire higher yielding loans outside the mortgage field.

This could happen, but it is extremely unlikely. Let me explain.

Under the \$1 billion special assistance authority, FNMA will have no authority to buy existing mortgages. The bill before us limits the funds for the purchase of FHA and VA mortgages secured by new residential units. No old mortgages could be purchased with this money.

Under the other part of the bill—the \$3.76 billion authority to purchase mortgages under the Secondary Mortgage Market—it is possible but quite unlikely that these funds would end up in other types of investments. In the first place, under existing regulations FNMA does not buy any mortgages more than 4 months old. I assume that this regulation or some similar regulation will continue in effect during the present emergency. If this is done, the answer to the Senator's question is obvious.

If, for some reason, the FNMA should remove this 4-month restriction it is unlikely that lenders would be willing to sell mortgages out of their portfolio at the price offered by FNMA. These prices are now about 95 for 5½ percent mortgages and most lenders would not be willing to sell at this price. In fact the price for other mortgages bearing interest rates below the 5½ percent are even lower. A 5½ percent FHA mortgage is priced at 91. An investor would have to take a very large loss, for example, if he wanted to sell old mortgages. From an economical standpoint this would not make any sense and therefore I think that even if the FNMA should change its current practice it is unlikely that many investors would find it economically feasible to sell mortgages at such low prices.

[From the Washington Post, Aug. 24, 1966]

\$4.7 BILLION HOUSING BILL GOES TO SENATE

Senate-House conferees agreed yesterday on a compromise bill to pump an additional \$4.76 billion of Government Mortgage Purchase Funds into the sagging home-building industry.

In coming to a quick agreement on the legislation at their meeting, the conferees wrote in the highest possible figure by accepting all the devices carried in both the House and Senate versions.

Sponsors said the compromise measure probably will be called up in the Senate Wednesday and could be signed into law by the end of this week.

The new funds would be channeled through the Federal National Mortgage Association. They would apply to FHA-insured and VA-guaranteed mortgages.

The extra FNMA purchasing authority would be made available in these ways:

\$2 billion by authorizing the Association to issue debentures up to 15 times its capital instead of 10 times as under present law. This was in both versions.

\$1.76 billion by authorizing the Treasury to subscribe to an additional \$110 million of FNMA preferred stock. This also would be subject to the new 15-to-1 ratio. This provision was in the House measure, not in the Senate.

\$1 billion by authorizing FNMA to draw an additional \$500 million from the Treasury and \$500 million from special funds available to the President. The money would be for the Agency's special assistance function. This provision was in the Senate bill, not the House.

Mr. WILLIAMS of Delaware. Mr. President, as I understand it, the only way the Senate can approach the problem is first to vote on agreeing to the conference report.

If it should be rejected, a motion could be made to send the bill back to conference with instructions. I believe, first, a vote would come on the conference report, and if it is agreed to, there would be no other opportunity to get a vote. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WILLIAMS of Delaware. Mr. President, I hope that the conference report will be rejected. If it is, I shall move to send it back to conference with instructions to insist on the Senate amendments.

Mr. President, once more I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I should like to reiterate my commendation of the Senator from Alabama for his handling of this measure. We have produced in conference a highly constructive piece of legislation which I think will do a great deal to alleviate positive mortgage money in this country. To me, it represents one of the most significant pieces of legislation passed by Congress.

Mr. SPARKMAN. I thank the Senator from Texas and I share his hopes as to the ultimate effects of this significant legislation.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Alaska [Mr. GRUENING], the Senator from Missouri [Mr. LONG], the Senator from Montana [Mr. METCALF], the Senator from Oregon [Mr. MORSE], the Senator from Connecticut [Mr. RIBICOFF], the Senator from New Jersey [Mr. WILLIAMS], the Senator from Ohio [Mr. YOUNG], and the Senator from West Virginia [Mr. RANDOLPH], are absent on official business.

I also announce that the Senator from Indiana [Mr. HARTKE] and the Senator from Arizona [Mr. HAYDEN] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], the Senator from Alaska [Mr. GRUENING], the Senator from Indiana [Mr. HARTKE], the Senator from Connecticut [Mr. RIBICOFF], the Senator from New Jersey [Mr. WILLIAMS], the Senator from Ohio [Mr. YOUNG], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Missouri [Mr. LONG], and the Senator from Oregon [Mr. MORSE], would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from California [Mr. MURPHY] are absent because of illness.

The Senator from Idaho [Mr. JORDAN] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

If present and voting, the Senator from Utah [Mr. BENNETT], the Senator from Idaho [Mr. JORDAN], and the Senator from California [Mr. MURPHY] would each vote "yea."

The result was announced—yeas 78, nays 7, as follows:

[No. 220 Leg.]

YEAS—78

Alken	Gore	Montoya
Allott	Griffin	Morton
Anderson	Harris	Moss
Bass	Hart	Mundt
Bayh	Hickenlooper	Muskie
Bible	Hill	Nelson
Brewster	Holland	Neuberger
Burdick	Hruska	Pastore
Byrd, W. Va.	Inouye	Pearson
Cannon	Jackson	Pell
Carlson	Javits	Proxmire
Case	Jordan, N.C.	Russell, S.C.
Church	Kennedy, Mass.	Russell, Ga.
Clark	Kennedy, N.Y.	Saltonstall
Cooper	Kuchel	Scott
Curtis	Long, La.	Smathers
Dirksen	Magnuson	Smith
Dodd	Mansfield	Sparkman
Dominick	McCarthy	Stennis
Douglas	McClellan	Symington
Eastland	McGee	Talmadge
Ellender	McGovern	Thurmond
Ervin	McIntyre	Tower
Fannin	Miller	Tydings
Fong	Mondale	Yarborough
Fulbright	Monroney	Young, N. Dak.

NAYS—7

Boggs	Lausche	Robertson
Byrd, Va.	Prouty	Williams, Del.
Cotton		

NOT VOTING—15

Bartlett	Jordan, Idaho	Randolph
Bennett	Long, Mo.	Ribicoff
Gruening	Metcalf	Simpson
Hartke	Morse	Williams, N.J.
Hayden	Murphy	Young, Ohio

So the conference report was agreed to.

Mr. MANSFIELD. Mr. President, I should like to ask the distinguished Senator from Alabama [Mr. SPARKMAN] a question.

On the basis of the conference report just agreed to, what effect will that have on a lumber industry in the Rocky Mountain region and the west coast, which is approaching a state of crisis in some areas?

Mr. SPARKMAN. I should think it would have a stimulating effect. In fact, I would say it will have.

I might mention the fact that there is no industry that does more in providing jobs and getting funds into the hands of the homebuilder, the homeowner, and those interested in it, than the home-building industry, because it reaches out into just about all the reaches of our economy, even back to cutting logs in the woods.

Mr. MANSFIELD. And that is the lumber industry.

Mr. SPARKMAN. Yes. I had a statement at one time—I do not know whether I can find it now or not; if I do, I shall be happy to put it in the RECORD—that shows the effect on the economy of building, say, a million homes.

The statement follows:

The construction of a million homes is estimated to provide markets for 10 billion board feet of structural lumber, 1 billion square feet of soft wood and plywood, 1.2 billion board feet of flooring, 3.5 billion bricks, 1.8 billion pounds of cement, 1.5 million tons of steel, 10 million doors, 5 million kitchen cabinets, 20 million wall-plug outlets, 10 million electric switches.

Mr. MANSFIELD. Mr. President, I asked the question for the RECORD because, while I knew that it would have

an effect, it is nice to have it in black and white, and especially from the lips of the distinguished chairman of the Senate conferees; because in western Montana, while the lumber industry is still in fairly good shape, if something like this had not been done, it would be in pretty bad shape in the not too distant future.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. LAUSCHE. Will there be any area in the country in which the adoption of the conference report will not have a stimulating effect on the development of business?

Mr. SPARKMAN. I do not believe so. I think it will be nationwide.

Mr. LAUSCHE. Does that mean that the passage of the bill will accelerate the rise of costs, and contribute to the conquest that inflation is making on our economy?

Mr. SPARKMAN. I do not agree with that. We discussed that matter in the course of discussing the conference report.

Mr. MANSFIELD. Quite the contrary, would not the Senator say?

Mr. SPARKMAN. Yes, because housing, decent shelter, is as much an essential as food, medicine, and clothing. We do not think of those things as being inflationary. Why should we think of this as being inflationary?

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. WILLIAMS of Delaware. I am sure the Senator agrees that money pumped into the economy, regardless from what source it comes, does have some inflationary impact. If we pump \$3 billion additional into the economy—and I supported the first proposal of \$3 billion—it would have had some effect. The bill as just passed provides for \$4,650 million, or about \$1.25 billion more than the Senate bill and more than the President recommended; and it will have that much more impact. Certainly, as this new money increases the demand for refrigerators and all the other appliances, it will automatically and inevitably have some effect on the economy. Whether the advantages are offset by the disadvantages is another point. But nevertheless, Congress cannot appropriate any amount of money without having an impact; and, as the President pointed out yesterday, this continuous increase in Government spending is what is causing the threat of price controls, wage controls, and a tax increase.

That is the reason why I was reluctant to see the Senate pass a bill here this morning providing \$1.25 billion more than the President wanted, more than he said he needed. An extra \$1.25 billion which the President yesterday said would be highly inflationary if this were done.

I repeat again my hope and expectation that the President will use his veto pen. He has said that he is against this spending and if he is against it there is only one thing for him to do, and that is to veto some of these measures. I, as a loyal supporter of economy, will be here carrying his banner when the veto message comes back.

Mr. YARBOROUGH. Mr. President, the Senator from Alabama had the floor immediately before the unanimous-consent request by the majority leader. I have a question to ask the distinguished Senator from Alabama. I yield myself 3 minutes on the bill at this time, since we are operating on controlled time.

The PRESIDING OFFICER. The Senator from Texas is recognized for 3 minutes.

Mr. YARBOROUGH. Mr. President, I point out to the distinguished Senator from Alabama that the communications from my State over the past weeks, received from people in different walks of life, point out that the drying up of mortgage money for homebuilding has virtually slowed homebuilding to a standstill. The greatest threat has been the decline in homebuilding and the absence of mortgage money. That is a greater danger than inflation. That statement has come to me from bankers, officials of savings and loan associations, homebuilders, and people in the supply business.

Does not the distinguished Senator from Alabama believe that the conference report that he sponsors today will help to stabilize the economy rather than unsettle it?

Mr. SPARKMAN. I certainly do.

Mr. YARBOROUGH. Does not the Senator believe that it will be a strong stabilizing factor?

Mr. SPARKMAN. I certainly do. An economy cannot be healthy if an appreciable part of it is unhealthy, and that is the situation which exists, so far as homebuilding and homeownership are concerned. An unhealthy condition does exist in homebuilding and homeownership.

Mr. YARBOROUGH. Mr. President, the communications I have received state that young people, due to a shortage of money, are not able to get the downpayments with which to buy a home. Many young people have conferred with lending institutions and homebuilders. They leave with a sense of frustration and a belief that the opportunities which they had a year ago have dried up and have prevented them from becoming homeowners.

I ask the distinguished Senator whether the conference report which has just been agreed to will help to unfreeze the money for the building of homes and help the flow of commerce in that direction.

Mr. SPARKMAN. That is our hope.

Mr. YARBOROUGH. Mr. President, I thank the Senator for his great contribution in this regard.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, announced that the House disagreed to the amendments of the Senate to the bill (H.R. 4665) relating to the income tax treatment of exploration expenditures in the case of mining; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MILLS, Mr. KING of California, Mr. BOGGS, Mr. KEOGH, Mr.

BYRNES of Wisconsin, Mr. CURTIS, and Mr. URT were appointed managers on the part of the House at the conference.

SOIL SURVEY PROGRAM FOR GUIDANCE IN COMMUNITY PLANNING AND RESOURCE DEVELOPMENT

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 902) to provide that the Secretary of Agriculture shall conduct the soil survey program of the U.S. Department of Agriculture so as to make available soil surveys needed by States and other public agencies, including community development districts, for guidance in community planning and resource development, and for other purposes, which were on page 3, line 10, strike out "full"; and on page 3, after line 15, insert:

The provision by the Secretary of such assistance shall not interfere with the furnishing of engineering services by private engineering firms or consultants for on-site sampling and testing of sites or for designs and construction of specific engineering works.

Mr. EASTLAND. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi.

The motion was agreed to.

FAIR LABOR STANDARDS AMENDMENTS OF 1966

The Senate resumed the consideration of the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, the distinguished Senator from Arizona has been most patient and most considerate, and I think it is only fair to him and to the Senate to propound the unanimous-consent request, which I have discussed with the distinguished minority leader, the manager of the bill; the Senator from Texas [Mr. YARBOROUGH], the ranking minority member and manager on the Republican side [Mr. JAVITS], the distinguished Senator from Louisiana and chairman of the Committee on Agriculture and Forestry [Mr. ELLENDER], and the distinguished Senator from Florida and chairman of the Agriculture Subcommittee on Appropriations [Mr. HOLLAND], as well as other Senators.

Mr. President, I ask unanimous consent that debate on any amendment to the pending bill be limited to 1 hour; to be equally divided between and controlled by the proponent of the amendment and the manager of the bill, with the exception of the Javits child labor amendment, on which there is to be allotted 2 hours to be similarly divided and controlled, and the Ellender-Holland agricultural amendment, on which there will be 3 hours equally divided and controlled; and that debate on final passage

be limited to 5 hours, with the 1 and the 2 hours I have mentioned taken away.

Mr. SMATHERS. Mr. President, reserving the right to object, may I ask the majority leader a question? I did not hear the first part of the unanimous-consent request. Does it prohibit or preclude further amendments being offered?

Mr. MANSFIELD. No; it does not.

Mr. SMATHERS. We can still offer them. I have no objection.

Mr. JAVITS. Mr. President, reserving the right to object, as I understand it, although the majority leader said that the 5 hours was to be on passage of the bill, that does not prevent that time from being allocated on any amendment or at any time during the consideration of the bill.

Second, Mr. President, I ask the majority leader, as a part of his unanimous-consent request, to make a reservation as to the germaneness, which will be accepted for the purpose of the unanimous-consent request, of an age-discrimination-in-employment amendment which I shall propose for myself and other Senators.

Mr. MANSFIELD. I ask unanimous consent that the regular rule be included in the request. Also, what the distinguished Senator from New York has said relative to additional time on the bill being allocated to his amendment and to that of the Senator from Florida and the Senator from Louisiana will be adhered to; and if any additional time is needed, they need have no hesitation to ask for it, and I am confident the request will be granted.

Mr. JAVITS. On those or other amendments?

Mr. MANSFIELD. On those and other amendments.

Mr. JAVITS. And the time will be equally divided between the majority and the minority, and controlled by the manager on each side?

Mr. MANSFIELD. On that request, I would request that time be under the control of the majority and the minority leaders or whomever they may designate.

Mr. ELLENDER. Mr. President, as I understand, the Senator has reduced the number of hours from 9 to 5?

Mr. MANSFIELD. From 8 to 5, because of an extra hour for the Senator from New York and 2 extra hours for the Senator from Louisiana and the Senator from Florida; and more time will be provided if needed.

Mr. ELLENDER. I understood that on the amendment of the Senator from Florida and myself, the time would be 3 hours, and on that of the Senator from New York, 2 hours. That would be separate and apart from the 9 hours allowed on the bill?

Mr. MANSFIELD. Mr. President, I ask that the time be raised from 5 to 8 hours on the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. JAVITS. Mr. President, is it understood that the time on the bill, the 8 hours, is to be equally divided between the majority and the minority leaders?

The PRESIDING OFFICER. Or someone designated by them.

Mr. MANSFIELD. Yes.

Mr. President, before the question is put, I see the distinguished Senator from Florida is now in the Chamber. I wish to make sure that he understands the request.

Mr. HOLLAND. Mr. President, reserving the right to object; do I correctly understand that on the amendment which would exempt agricultural labor from the coverage of the bill, 3 hours have been allowed?

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. Yes. More time on the amendment can be allowed under the 8 hours asked for on the bill itself.

Mr. HOLLAND. Mr. President, I thank the majority leader. I have no objection.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

The unanimous-consent agreement, subsequently reduced to writing, reads as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That during the further consideration of the bill (H.R. 13712), an act to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes, debate on any amendment [except one (No. 759) to be offered by the Senator from New York, Mr. JAVITS, which is to be debated for 2 hours, and one (No. 766) to be offered by Senators HOLLAND-ELLENDER, which is to be debated for 3 hours], motion, or appeal, except a motion to lay on the table, shall be limited to 1 hour, to be equally divided and controlled by the mover of any such amendment or motion, and the Senator from Texas [Mr. YARBOROUGH]: *Provided*, That in the event the Senator from Texas [Mr. YARBOROUGH] is in favor of any such amendment or motion the time in opposition thereto shall be controlled by the minority leader or some Senator designated by him: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received, except amendments numbered 759, 764, 766.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 8 hours, to be equally divided and controlled, respectively, by the majority and minority leaders: *Provided*, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

Mr. FANNIN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 10 minutes.

Mr. FANNIN. Mr. President, I ask for the yeas and nays on my amendment. The yeas and nays were ordered.

Mr. FANNIN. Mr. President, of concern to me as I offer my stretch-out amendment to the minimum wage bill are the historical objectives of this legislation. What we are trying to achieve are fair increased wages, but without the loss of jobs and without an adverse impact on small businesses or industries with marginal earnings.

The same small business organizations that we are supposed to be protecting through the efforts of the Senate Select

Committee on Small Business and through the expenditure of millions of dollars by the Small Business Administration will be those hardest hit.

We also devote a great deal of attention to the plight of the fringe worker who is finding job opportunities disappearing as we enter the computer age. We have created programs to help them. Yet the passage of this bill will guarantee that tens of thousands of men and women now employed in retail stores will find their jobs disappearing.

Surveys show that many retailers will have to drastically reduce their number of employees and place the remaining ones on a shorter work week, again in an effort to bring costs into line. If my colleagues have been reading their mail they know the pleadings of many of their constituents. One of many respondents said that his store would be left with a profit of 0.8 percent before taxes and he is one of the small businessmen that we say we are dedicated to aid.

My objection to making the \$1.60 an hour minimum wage requirement applicable in February 1968, is prompted by my sincere concern that this early date will defeat completely the very purpose of the Fair Labor Standards Act. The preamble of the act states:

To correct and as rapidly as possible eliminate in industries engaged in commerce or the production of goods for commerce of * * * labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency and general well-being of workers in such industries without substantially curtailing employment or earning power. (Public Law No. 718, 75th Cong., 3d sess., ch. 676, S. 2475.)

Too great an increase would in my opinion cause severe hardship on the very people it purports to protect—the unskilled, uneducated, and especially our youth. It will deny them the job opportunities they require since employers seeking to maintain wage levels commensurate with productivity will necessarily be forced to seek employees with higher skills and greater productivity. The result of a minimum wage going too far; too fast, will be to further increase the national problems in our welfare programs.

The bill provides for a 20-cent increase that would become effective only 1 year after the economy has absorbed the 15-cent increase to \$1.40. This proposed increase is equivalent to an annual rise of 14.3 percent—a drastic upward movement that is without precedent in nearly three decades of minimum wage legislative history.

My amendment would not disturb the 15-cent boost to \$1.40, but would stretch out the absorption period to 24 months—the same length of time voted by the House.

If we followed the pattern of increases and effective dates established in prior amendments to the minimum wage law, a 36-month period would be more appropriate.

Even the 24-month period called for in this amendment would exceed the historic pattern and would shatter what is left of the administration's guidelines. It would produce an annual increase of

7.2 percent—a figure that is more than double the guideline concept.

The 36-month period by contrast would have produced an annual increase of only 4.7 percent, and this is considerably more in keeping with the guideline concept as well as past experience.

In the period 1947–63, minimum hourly wage rates were raised substantially—in fact, much more on a percentage basis than the average for all wages. Gross hourly earnings of production workers in manufacturing doubled in this period from \$1.22 to \$2.46 per hour. In the same period legal minimum wage rates increased nearly threefold.

There are, of course, two sides to every issue. Those of us who support minimum wage legislation base our support on social and humanitarian factors.

But, nevertheless, our support for this legislation should not be so fervent as to arbitrarily fix a minimum wage increase more rapidly than average wages in American industry.

Raise the minimum wage too fast and you do not achieve the objective.

We all know that our most acute employment problem facing us today and for some years to come is found in our teenagers. We must not deny these potential employees the job opportunities. I believe a 24-month period is a reasonable approach to assure a decent minimum wage of \$1.60 but not at so rapid a pace as in the pending bill.

Mr. President, based on the existing administration's 3.2-percent guideposts, the minimum wage called for in this bill is without question excessive. I do not believe that this 3.2-percent guidepost is sacrosanct. I therefore would support the \$1.40 an hour minimum wage for February 1967, and even the eventual requirement of \$1.60; but in all good conscience I feel that to apply this rate in February 1968, is unjust to all concerned, and exceeds so greatly the non-inflationary guideposts, that we must adopt my amendment.

We now have full-employment economy which is in danger of overheating. Any excessively imposed wage fixing policies at this time will pose an added and serious threat to our economic stability.

I would like to call to the attention of Senators that on May 18, 1965, when the President sent his labor message to Congress he supported revisions in our minimum wage law and he supported an increase, but with the proviso that—

The question is not whether the minimum wage should be increased but when and by how much. The Congress should consider carefully the effects of higher minimum wage rates on the incomes of those employed, and also on costs and prices, and on job opportunities—particularly for the flood of teenagers now entering our labor force.

With this very appropriate comment in mind from our President, I doubt the wisdom of legislation which would make the \$1.60 minimum wage applicable in February 1968.

Mr. President, a 14.3-percent increase will prove extremely detrimental.

Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. YARBOROUGH. Mr. President, the proposed amendment, which would stretch out the applicability of the second-step increase of the minimum wage from \$1.40 to \$1.60 an hour from 1968 to 1969, therefore postponing for 1 year the effective date of the second step of this increase, would further worsen our poverty problem in America.

I favor the amendment of the Committee on Labor and Public Welfare, raising the minimum wage to \$1.60 an hour by February 1968, and I urge the Senate to retain the committee amendment.

If a person worked 8 hours a day, 5 days a week, and had no illness and no layoffs and no loss of time and no vacation, and he worked 52 weeks a year, at the rate of \$1.40 an hour he would earn \$2,912 in a year. Until we get him up to the \$1.60 an hour, he has not even reached the poverty level of income.

By the vast profits made in America today and the high rate of income of our people, we are zeroing poverty in. We are acknowledging and supporting poverty by law, unless we raise the minimum wage standard to at least above the poverty level.

If \$1.60 an hour, which is the maximum rate that this bill would raise wages to, were earned 8 hours a day, 5 days a week, for 52 weeks in a year, without any loss of time by layoff, by shortages of work, by illness, or anything else, a worker would earn \$3,328 a year. That is all he would earn. And we must get it up to the \$1.60 level before we reach what is generally regarded as the level of poverty. That is not the only consideration in considering what is the level of poverty.

When the Fair Labor Standards Act was enacted in 1938, it was generally recognized that such legislation must be periodically updated to meet the changing needs of our dynamic industrial society. The cost of providing a nutritionally adequate diet, shelter, and the other essentials for a family of four, as determined by welfare agencies, as a basis for food allotments for needy families, was \$4,000 a year in 1963. The poverty level was approximately \$3,000 to \$3,200 a year during 1963, and adequate diet and decent housing would have been difficult to achieve at this level of income.

Assuming an increase in the cost of living of 3 percent a year, generally considered to be a low estimate, the expectation of a 15 percent increase from 1963 to 1968 would set the poverty level at about \$3,500, and the level necessary for a nutritionally adequate diet and decent shelter at \$4,600 annually. And we do not even approach that amount in the

maximum levels we come to. An increase to \$1.60 an hour by 1969, if this were postponed another year, as proposed by the pending amendment, would not even keep pace with the rise in cost of the poverty standard of living.

This does not even keep up with the poverty standard of living, much less the overall standard of living of the American people.

A fully employed worker, working all year, without illness or layoff, at \$1.60 an hour would earn a gross annual income of \$3,328 a year. His take-home pay, after the deductions required for social security, carfares, and the other expenses necessary to produce his income, would be well below the amount considered the poverty level today, much less in 1968.

Men need self-respect and the respect of their wives and children. Men do not want or need public assistance. They would rather earn money. I know. In my youth, I worked in the harvest fields of the West. I followed the harvest north and slept on the ground. I have worked in the old fields of the West, sleeping in bunkhouses, with over a hundred men, on narrow ledges. I have worked at sea as a seaman. I have worked on the cotton farms.

I know the working people of America. They do not want charity. They want jobs and the chance to earn a decent living, and they need a decent living wage in return for their labor.

Where is the incentive for work, when a week's work does not even provide for a week's necessities? A wage which provides insufficient food, inadequate clothing, and miserable shelter hardly breeds self-respect, and sets little example for the children of poverty. How can these children be taught the values and satisfactions of work well done, when welfare handouts provide as much or more than the returns of hard labor?

We hear many complaints about welfare handouts being larger than wages. Shame on the situation. The wages should be bigger. They should be sufficient to keep skin and bones together. It is not because the welfare payment is so large; it is because the wages of labor are so low.

Gentlemen, even \$1.60 an hour barely provides a poverty level of living today. How can we project it as too much for 1968? Dare we wait for 1969 to bring it up to that level?

Mr. President, I point out the table at page 16 of the report, and ask that this table be printed at this point in the RECORD—the minimum wage provisions.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Specified rate	Estimated number of employees earning less than specified rates on effective date		Estimated annual wage bill increase on effective date	
	Number (thousands)	Percent	Amount (millions)	Percent
\$1.40	3,794	12	\$804	0.5
\$1.60	5,887	18	1,958	1.1

Mr. YARBOROUGH. Mr. President, the table points out that of the 29.6 million people covered by the minimum wage law, 3,794 million earn below the \$1.40 minimum for next year. Of the 29.6 million workers who will be covered when this law becomes effective on February 1 of next year, all will be earning more than \$1.40 an hour except 3,794 million, which is 12 percent of the working force. That amounts to only one-half of 1 percent increase in the cost of wages of all those people, out of the whole economy.

We would take the \$1.60 step in 1968; and then, of the 29.6 million workers covered by the old law, 5,887 million will be earning less than that, and it will bring their wages up, and that is 1.1 percent of the wages of this group.

Mr. JAVITS. Mr. President, with the Senator yield to me?

Mr. YARBOROUGH. I yield 5 minutes to the Senator from New York [Mr. JAVITS] in opposition to the amendment.

THE "STRETCH-OUT" AMENDMENT

Mr. JAVITS. Mr. President, this was a subject which was very ardently discussed in the committee, primarily because it represents a change in the bill from the other body. I started with no predilections about it either way. I finally came to the conclusion that I had to support the reduction of the time within which the \$1.60 minimum would take effect from 2 years to 1 year. That is the difference.

My reason is as follows: I believe that the minimum wage of \$1.60 can be justified now, and that we are not in the position where we have to wait for economic conditions to catch up to the \$1.60 minimum.

In my judgment, the most critical data appear at page 3 of the committee report, and reveal the following facts. Where we are dealing with industries covered under the act, there are only about 10 percent of those with incomes under \$3,000 a year. The last figures which we have are for 1964. But where we get to the industries where there is little or no coverage, the proportion jumps at least 30 percent.

I think that \$1.60, as to workers already covered, is justified now by the facts, and, therefore, I do not see why we should wait any longer to apply the basic safeguards which are required. I do not consider that we have inflationary questions concerned here because this is a minimum we are dealing with, and the productivity of the country can certainly well accommodate a basic minimum which is compatible with minimum subsistence. If it cannot, we have no business being in existence as a country. Of course, we know that productivity can accommodate such a minimum.

The argument is made that if the minimum is raised, it will cause a whole structure of increases above that by reason of the fact that employees in higher brackets will seek increases—a kind of "ripple effect." The history of the minimum wage development does not indicate this to be the fact.

Superficially and theoretically it may be so argued. Actually and practically it does not represent the facts and the history of the increases in minimum wages which have preceded this one.

I believe that 1 year from February 1, 1966, is ample time to prepare to deal with a substantially higher minimum of \$1.60. I am convinced of the economic justification which is present now, and the only reason for deference is to allow people to conform themselves to the new requirements, to consider how, perhaps, low-level wage employees might become more productive to justify this, and so forth.

It seems to me, knowing business practices as I do, that 1 year is more than ample for the purpose. Hence, my argument against the amendment is that no basic reason has been shown for a deference beyond 1 year, because the economics are ready now for \$1.60.

The only argument is one of practical conformance in terms of getting business to accommodate to a new standard, and practical conformance is given ample latitude in the space of 1 year.

I think the amount fixed as a minimum is a modest one. It does not go to the \$1.75 figure that many contended for, or the \$2 figure that others contended for. It contended itself with the maximum which could be beyond dispute.

Mr. President, even the proponents of the amendment does not dispute this. Hence, I believe the amendment should be rejected and we should, on the part of the Senate, go to conference in what is a proper posture for us, and the same time give business the opportunity to accommodate itself in a practical way within the year provided in the bill.

Mr. FANNIN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. GORE in the chair). The Senator is recognized for 5 minutes.

Mr. FANNIN. Mr. President, we have heard a great deal about the poverty level, and the statement has been made that we must move to \$1.60 as soon as possible, since any delay will perpetuate poverty. Why wait for even 1 year, at \$1.40?

It is not realistic to have that much delay in such a period of time. We are all concerned about jobs and without jobs we would have drastic poverty. But when talking about raising the level at this rate, and why it should not be, the answer is obvious to those familiar with American wage patterns because those who earn a minimum wage, in an overwhelming number of cases, are secondary wage earners—teenagers, housewives, and wage earners starting their careers at first jobs. They are often not heads of families whose earnings must support the "average" 4 months cited by the Office of Economic Opportunity. If the wage floor goes up too fast, these are the people who will be unable to find work and be forced into the despair of unemployment. If this were not the case, then Congress could waive its legislative wand, establish the minimum wage at \$4 per hour immediately, and solve every economic ill we face in the country.

In the Los Angeles Times of July 20, 1966, an article on this subject was printed which went to the heart of the matter we are discussing. The author, Ernest Conine, has this to say about minimum wages and their effect on the lower paid workers:

Labor leaders like to talk as though they champion higher minimum wages out of concern for the unfortunates at the bottom of the pay ladder.

Actually, the motivation is less altruistic. The union's push for higher wage floors because the effect is to push up wage rates for everybody, including skilled workers who already earn \$10,000 a year or more.

There's nothing evil about all this, of course; but the visible benefits of a minimum wage increase should not blind us to the detrimental effects—chief among which is the intensification of hard core unemployment—so that these may be dealt with.

This is precisely why we must be careful not to raise the wage floor too fast. We must not create unemployment for unskilled people while other governmental agencies are trying desperately to create jobs for them. At the same time we must avoid pushing up the wages of workers well above the floor in a manner that would cause higher prices.

Figures from the Bureau of Census, furnished when this issue was debated in the other body, make it clear that the average family in this country has more than a single wage earner. Even if all the wage earners in the family earned only the minimum the \$1.40 level to which we will move next February will raise the families in the low income group well above the \$3,000 poverty level. We will not perpetuate poverty by holding at the \$1.40 level for 24 months; indeed, if we can help bank inflationary fires, we will help make life better for those who must spend everything they earn to live.

Mr. President, I ask unanimous consent to have printed in the RECORD the information to which I have just referred.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF COMMERCE,
BUREAU OF THE CENSUS,
Washington, D.C., June 8, 1966.
Hon. THOMAS G. MORRIS,
House of Representatives,
Washington, D.C.

DEAR Mr. MORRIS: Secretary Connor has asked me to reply to your letter of May 25, requesting information on the average number of wage earners per family for all families and low-income families in the United States. The requested average number of earners is:

Average number of earners	All families	Low-income families
1964		
Average (mean) per family, including no earners.....	1.5	1.1
Average (mean) per family with 1 or more earners.....	1.7	1.5
1963		
Average (mean) per family, including no earners.....	1.5	1.1
Average (mean) per family with 1 or more earners.....	1.6	1.5

The average (mean) number of earners was derived from table 6 in the enclosed copy of the Consumer Income, *Current Population Reports*, Series P-60, Numbers 43 and 47. Earners include all persons in the family with wages or salary and self-employment income.

These figures represent estimates derived from sample surveys of households conducted by the Bureau of the Census in March 1965

and 1964. Because the estimates are based on a sample, they are subject to sampling variability.

Sincerely yours,

A. ROSS ECKLER,

Director, Bureau of the Census.

Enclosures.

Annual earnings computations (40 hour
workweek, 52 weeks)

Low-income category	Poverty level ¹	Income at \$1.40 rate
1.0 (Individuals).....	\$1,500	\$2,912
1.1 workers per family.....	3,000	3,203
1.5 workers per family.....	3,000	4,368

¹Source: Project Head Start, community action program, Office of Economic Opportunity, Washington, D.C., "An Invitation To Help" (p. 13).

As shown by the above figures, when the minimum reaches \$1.40, income of workers covered by minimum wage legislation will exceed poverty levels.

Mr. FANNIN. Mr. President, as this information shows, the average low income family has 1.5 wage earners. At \$1.40 per hour, this means that that family will receive an annual income of \$4,368—well above the poverty level of \$3,000. Even if you include low income families who are on relief in your computations, the \$1.40 level produces an annual income of \$3,203.

In other words, when we talk about minimum wages and poverty—when we say that there are people who are employed full time and still earning less than a poverty income—we are talking about coverage, not rate. The Senator from Texas talked yesterday about people working full time at very low wages—40 to 60 cents an hour. Raising the minimum wage will not help these people, because the present floor of \$1.25 is above their present wage. They don't need to have the floor raised too quickly for everybody else; they need to be covered themselves. I realize that there are good and sufficient reasons for withholding coverage from certain workers, and I support such exemptions. But I say that we should hear no more of this argument about the rate being the key to eliminating poverty. As soon as the rate goes to \$1.40, as the census figures show, families and individual workers will be earning annual incomes in excess of the poverty levels, if they are covered by the minimum wage.

Mr. KENNEDY of New York. Mr. President, I strongly oppose the amendment offered by the Senator from Arizona [Mr. FANNIN].

The arguments that he makes concerning the guidelines and the difficulty the economy will have in absorbing these wage increases are unpersuasive in my judgment.

The workers whom the bill would benefit are people who do not receive a living wage. The \$1.40 an hour which the bill provides beginning next February 1 amounts to \$2,912 a year—less than the generally accepted poverty line. The \$1.60 an hour which would go into effect the following year is only \$3,328 a year. To challenge coverage of this kind on the ground that it transcends the guidelines is not really to the point, for the guidelines were never intended to preclude increases of the magnitude needed to

bring a living wage to those who earn a substandard income.

And the overall cost of going up to \$1.60 an hour by February 1, 1968, is miniscule in an economy which has a gross national product of \$732 billion. The cost will be less than three-tenths of 1 percent of our gross national product. The important thing that the bill would do is give thousands of people now working at substandard wages some additional purchasing power—a slightly fairer return for the work that they put in. This is the kind of investment that all of us—on either side of the aisle and whatever our political thinking—should be willing to make for those less fortunate than we. For it is an effort to improve living standards which is based on work and on pay given for services rendered. I believe that that is the kind of antipoverty effort that all of us can agree about.

Mr. President, I therefore oppose the Fannin amendment. To adopt it, in my judgment, would be a great mistake, a failure in our responsibility to improve the conditions of the "working poor" of our Nation.

Mr. FANNIN. Mr. President, I yield back the remainder of my time.

Mr. YARBOROUGH. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment offered by the Senator from Arizona.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMINGTON (when his name was called). On this vote I have a pair with the distinguished Senator from California [Mr. MURPHY]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. SCOTT (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Utah [Mr. BENNETT]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished Senator from West Virginia [Mr. RANDOLPH]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. INOUE. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Alaska [Mr. GRUENING], the Senator from Missouri [Mr. LONG], the Senator from Montana [Mr. METCALF], and the Senator from West Virginia [Mr. RANDOLPH] are absent on official business.

I also announce that the Senator from Tennessee [Mr. BASS], the Senator from Indiana [Mr. HARTKE], the Senator from Arizona [Mr. HAYDEN], the Senator from Alabama [Mr. HILL], the Senator from Louisiana [Mr. LONG] and the Senator from Minnesota [Mr. MCCARTHY] are necessarily absent.

I further announce that, if present

and voting, the Senator from Alaska [Mr. GRUENING], the Senator from Missouri [Mr. LONG] and the Senator from Minnesota [Mr. MCCARTHY] would each vote "nay."

On this vote, the Senator from Alaska [Mr. BARTLETT] is paired with the Senator from Idaho [Mr. JORDAN]. If present and voting, the Senator from Alaska would vote "nay," and the Senator from Idaho would vote "yea."

On this vote, the Senator from Alabama [Mr. HILL] is paired with the Senator from Tennessee [Mr. BASS]. If present and voting, the Senator from Alabama would vote "yea," and the Senator from Tennessee would vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from California [Mr. MURPHY] are absent because of illness.

The Senator from Idaho [Mr. JORDAN] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

On this vote, the Senator from Idaho [Mr. JORDAN] is paired with the Senator from Alaska [Mr. BARTLETT]. If present and voting, the Senator from Idaho would vote "yea" and the Senator from Alaska would vote "nay."

On this vote, the Senator from Wyoming [Mr. SIMPSON] is paired with the Senator from Louisiana [Mr. LONG]. If present and voting, the Senator from Wyoming would vote "yea" and the Senator from Louisiana would vote "nay."

The positions of the Senator from Pennsylvania [Mr. SCOTT], the Senator from Utah [Mr. BENNETT] and the Senator from California [Mr. MURPHY] have been previously stated.

The result was announced, yeas 40, nays 42, as follows:

[No. 221 Leg.]

YEAS—40

Allott	Fulbright	Pearson
Boggs	Griffin	Robertson
Byrd, Va.	Harris	Russell, Ga.
Carlson	Hickenlooper	Saltonstall
Church	Holland	Smathers
Cooper	Hruska	Sparkman
Cotton	Jordan, N.C.	Stennis
Curtis	Lausche	Talmadge
Dirksen	McClellan	Thurmond
Dominick	McIntyre	Tower
Eastland	Miller	Williams, Del.
Ellender	Monroney	Young, N. Dak.
Ervin	Morton	
Fannin	Mundt	

NAYS—42

Aiken	Hart	Muskie
Anderson	Inouye	Nelson
Bayh	Jackson	Neuberger
Bible	Javits	Pastore
Brewster	Kennedy, Mass.	Pell
Burdick	Kennedy, N.Y.	Prouty
Byrd, W. Va.	Kuchel	Proxmire
Cannon	Magnuson	Ribicoff
Case	McGee	Russell, S.C.
Clark	McGovern	Smith
Dodd	Mondale	Tydings
Douglas	Montoya	Williams, N.J.
Fong	Morse	Yarborough
Gore	Moss	Young, Ohio

NOT VOTING—18

Bartlett	Hill	Metcalf
Bass	Jordan, Idaho	Murphy
Bennett	Long, Mo.	Randolph
Gruening	Long, La.	Scott
Hartke	Mansfield	Simpson
Hayden	McCarthy	Symington

So Mr. FANNIN's amendment was rejected.

Mr. YARBOROUGH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG of Louisiana. Mr. President, I wish to state for the record that on the previous vote I had a pair with the Senator from Wyoming [Mr. SIMPSON]. If he had been present and voting, he would have voted "yea" and if I had been at liberty to vote, I would have voted "nay."

Mr. DODD. Mr. President, it cannot be disputed that, collectively, the people of this country enjoy the highest standard of living anywhere in the world.

Yet in the midst of this abundance and prosperity, it is painfully obvious that many people, many families still lack the resources to maintain more than a minimal existence. More often than not these people do not have the things that most of us consider to be the necessities of life, much less the numerous luxuries and niceties which the majority of us have come to take so for granted.

I am not speaking here only of the unemployed and the welfare recipients. Hundreds of thousands of these individuals work at full time jobs, and often even seek a second job, in order to provide their families a subsistence level income.

The administration's antipoverty campaign has directed the attention of the entire Nation to the most extreme cases of deprivation and want and has initiated a program to help eliminate this blight from the American scene.

The heart of this poverty program, and of the Nation's social policy in general, is the sound and realistic principle of self-help.

Certainly, there is nothing more essential to the concept of economic self-help than the opportunity for a man to earn a decent living wage for a reasonable day's work.

This to my mind is the issue before us as we consider new minimum wage legislation. We are concerned here not with problems of big labor or big business, but of the individual employees in small businesses and industries, of migrant farm workers, of hotel and restaurant workers, of hospital and laundry employees.

We are concerned here with persons whose low wages do not reflect the rising standards enjoyed by the majority of the American labor force. Many of these people fall into a category described by President Johnson as the "working poor."

I strongly support the minimum wage bill now before us as a needed response to this lamentable situation.

In simplest terms, these proposed amendments to the Fair Labor Standards Act of 1938 would extend minimum wage protection to 7.2 million new workers and would raise the current minimum wage in stages to \$1.60 per hour.

It is important to note, I think, that 82 percent of the 30 million workers now covered by Federal minimum wage regulations already earn more than the proposed \$1.60 per hour.

Thus this bill would have little or no impact on them.

It would be of tremendous significance to the 18 percent who fall short of this wage level and, more importantly, to the families of the more than 7 million service, trade and agricultural workers who would be covered for the first time. Of these, it is estimated that 905,000 now earn less than a dollar an hour, including such extreme cases as field workers who receive as little as 30 cents an hour for their backbreaking labor.

Obviously, many of the 7.2 million who would be covered by H.R. 13712 are now among the lowest paid workers in the country.

These are decent hardworking Americans who continue to be short-changed as the general wage level rises—these workers often belong to no unions, have no strong industrial organization behind them, are represented by no lobbies in Washington, and they will remain at a disadvantage in bargaining for better wages unless Congress does something to help.

I believe this minimum wage legislation is the best approach to the problem. And while such action is not formally part of the antipoverty program, I believe it can be a most effective weapon against the economic immobility which perpetuates the poverty cycle and its concurrent frustrations and hopelessness.

Under the terms of H.R. 13712 as reported, the minimum wage would be increased in two steps to \$1.60 in February 1968. For newly covered employees, it would begin at \$1 and reach \$1.60 in 1971. The single exception to this is the minimum wage for agriculture workers, which would begin at \$1 and be raised in two additional steps to an eventual \$1.30 in 1969.

Surely this is not unreasonable in a country where the productivity of workers has increased dramatically in recent years, where the real value of the gross national product increased more than 4.3 percent from 1960 to 1964, where the GNP for 1965 was \$681.2 billion, and where corporate profits reached \$75.7 billion for the same year.

The last minimum wage bill was passed in 1961, and the \$1.25-per-hour floor did not go into effect until 1963. I think I can safely say that increases in the cost of living in this period have more than absorbed this last wage increase.

Surely an increase of \$.45 over 5 years, from 1963 until the \$1.60 wage becomes effective in 1968, is not unreasonable.

Opponents of H.R. 13712 argue mightily that it would be inflationary to assure workers an eventual \$68 for a 40-hour workweek.

To these persons I would cite the letter of Arthur Okun, Acting Chairman of the President's Council of Economic Advisors, regarding this legislation. Stressing the fact that the level of the minimum wage has not kept pace with our economic advances Mr. Okun says:

An important feature of H.R. 13713 is that its enactment will not hamper our policy designed to preserve stability of costs and prices. First the provisions of the bill will become effective in two stages; the timing makes possible a gradual adjustment without causing disruptive cost pressures.

Secondly, the minimum wage for the

newly covered worker begins with a very modest figure of \$1 and rises gradually over a period of 4 years.

Thus, the content of H.R. 13713 reconciles the goals of our social policy with the vital objectives of non-inflationary prosperity for the American economy.

The second specter always raised by critics of minimum wage legislation is that it will create new unemployment. As the committee points out in its report, our long record of economic growth and high employment dispels this textbook argument just as it does the inflation issue.

I am proud to say that in my own home State of Connecticut, we already have minimum wage laws covering as many as 340,000 workers who are not now protected by the Federal minimum wage. These include such categories as restaurants, hotels, hospitals, laundries, and retail and service establishments which would be brought under the provisions of the new national regulations.

There are, however, a few important areas which are not yet covered in the State, such as agriculture workers, and not all categories receive the full \$1.25 provided by Federal coverage.

I would like to see these individuals in my State and workers throughout the Nation assured a decent living wage, regardless of their specific occupation. I believe that we need new minimum wage legislation. I believe that H.R. 13712 is a good effective bill. And I will continue to oppose any efforts to limit coverage under this measure, to string out the wage increases over a longer period of time, or to significantly weaken the provisions of the measure in any other way.

Mr. HOLLAND, Mr. YARBOROUGH, and Mr. FULBRIGHT addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. YARBOROUGH. Mr. President, will the Senator yield time on the bill in order that the Senator from Arkansas may engage in a colloquy?

Mr. HOLLAND. Mr. President, I shall be glad to do so. Then I have a colloquy which I would also like to be taken out of the time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FULBRIGHT. Do I understand correctly that, under existing law, an individual outlet or establishment of a retail chain store enterprise is exempt from coverage if gross annual sales of the individual establishment do not exceed \$250,000?

Mr. YARBOROUGH. That is my understanding of the law. Each retail outlet is considered as a separate store, business, or unit.

Mr. FULBRIGHT. And this is true regardless of what might be the aggregate gross annual sales of the enterprise as a whole?

Mr. YARBOROUGH. That is correct.

Mr. FULBRIGHT. Do I also understand correctly that the pending bill would make no change in this provision of existing law?

Mr. YARBOROUGH. That is correct.

Mr. HOLLAND. Mr. President, I wonder if I may engage in a colloquy with the

Senator from Texas, from time on the bill?

Mr. YARBOROUGH. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SHADE TOBACCO

Mr. HOLLAND. Mr. President, on May 25, 1966, during the course of debate on this legislation in the House, Congressman FUQUA, of Florida, asked this question of the manager of the bill [Mr. DENT].

Would enactment of this legislation in any way change the exemptions contained in section 13(a)(14) of the act for employees employed in the growing and harvesting of shade tobacco?

Mr. DENT's reply was that he had contacted the Department of Labor and the Director of the Bureau, and was informed to the effect that growing and harvesting of shade grown tobacco on through to the shed processing is exempt under special exemption all the way through to the stemming process and will not be covered by this legislation.

If this is the correct interpretation, it would be correct to say that these workers will remain exempt while growing and harvesting as well as processing this product up to the stemming process.

I would like to ask the manager of the bill if this is his understanding under the bill we are considering.

Mr. YARBOROUGH. I say to the distinguished Senator from Florida that that is a correct statement of the bill as I understand it. That is my understanding of the law. There is a special exemption for growing and harvesting of shade-grown tobacco.

Mr. HOLLAND. I thank the distinguished Senator from Texas.

Mr. COOPER. Mr. President, will the Senator yield for a moment?

Mr. HOLLAND. The Senator from Texas has the floor.

Mr. YARBOROUGH. I yield to the Senator from Kentucky.

Mr. COOPER. I ask the Senator, Does his interpretation apply only to shade-grown tobacco, or as well to other types of tobacco as well, specifically burley and dark tobacco?

Mr. YARBOROUGH. It applies specifically to shade-grown tobacco.

Mr. COOPER. I am very happy that the exemption does apply to shade-grown tobacco but will the Senator tell me what distinction is made between the exemption of shade-grown tobacco and exemptions of other types of tobacco?

Mr. YARBOROUGH. The colloquy I had with the distinguished Senator from Florida was merely to state that the Senate had not changed the House bill in that respect, or the understanding or interpretation. This provision came from the House bill, and it is a part of the present act. We merely followed the present law. This has been the law for a long time. It is printed, as a part of the present complete law, at page 61 of the report, as follows:

Any agricultural employee employed in the growing and harvesting of shade-grown tobacco who is engaged in the processing (including, but not limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling) of such tobacco,

prior to the stemming process, for use as cigar wrapper tobacco.

That provision has existed in the law for many years.

Mr. COOPER. I thank the Senator. I do not wish to hold up the Senator from Florida.

Mr. YARBOROUGH. We did not change the existing law. This has been settled law for many years.

Mr. COOPER. I shall ask the Senator later about other types of tobacco.

Mr. YARBOROUGH. We did not disturb the existing law in that respect.

Mr. HOLLAND. Mr. President, I reaffirm the statement of the Senator from Texas that this is merely a continuation of the present provisions of the law, based, however, if I may say so, on the many detailed processing requirements in the early stages of handling of Shade-grown tobacco, which are not required, for instance, for Flue-cured tobacco, which is raised in my State in far greater quantities than the Shade grown. But the Shade-grown tobacco requires this multiplicity of processes which are involved in the handling of the raw product.

Mr. President, I call up amendment No. 766, which I propose for myself, Mr. ELLENDER, Mr. FANNIN, Mr. PEARSON, Mr. HRUSKA, Mr. WILLIAMS of Delaware, Mr. BASS, Mr. JORDAN of North Carolina, Mr. YOUNG of North Dakota, and Mr. RUSSELL of South Carolina.

The PRESIDING OFFICER (Mr. KENNEDY of New York in the chair). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HOLLAND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, because it is only technical. It refers to omitted portions of the bill, and I shall be glad to explain the meaning of the various points in my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment of the Senator from Florida [Mr. HOLLAND] is as follows:

AMENDMENT NO. 766

Beginning with line 14 on page 38, strike out through line 16 on page 39.

Beginning with line 9 on page 41, strike out through line 11 on page 43.

On page 43, line 12, strike out "(d)" and substitute "Sec. 203."

On page 44, line 12, strike out "paragraph (13) (added by section 203(c) of this Act)" and substitute "paragraph (12)".

On page 44, line 14, strike out "(14)" and substitute "(13)".

On page 44, line 21, strike out "(15)" and substitute "(14)".

On page 44, line 25, strike out "(16)" and substitute "(15)".

On page 47, line 21, strike out "paragraph (16)" and insert "paragraph (15)".

On page 47, line 23, strike out "(17)" and insert "(16)".

On page 53, strike out lines 7 to 25, inclusive.

On page 54, line 3, strike out "SEC. 303" and insert "SEC. 302".

On page 54, lines 5 and 6, strike out "(other than an employee to whom subsection (a) (5) applies)".

On page 54, line 23, strike out "SEC. 304" and insert "SEC. 303".

On page 58, lines 9 and 10, strike out "subsection (a) (5) or".

On page 58, lines 16 and 17, strike out "subsection (a) (5) or".

On page 58, lines 18 and 19, strike out "subsection (a) (5) or subsection (b), as the case may be" and substitute "subsection (b)".

On page 59, line 20, strike out "SEC. 305" and insert "SEC. 304".

On page 60, line 8, strike out "SEC. 306" and insert "SEC. 305".

The PRESIDING OFFICER. The Senator from Florida has an hour and a half on the amendment. How much time does he yield himself?

Mr. HOLLAND. I yield myself 15 minutes at this time.

Mr. President, the meaning of this amendment is that it would strike out, if enacted, all portions of the pending bill which would bring agricultural producers under the provision of the Wage and Hour Act—that is, the field producers as distinguished from producers in processing plants.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from South Carolina [Mr. THURMOND] be added as one of the cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLAND. Mr. President, this amendment stems not only from long practice, not only from the fact that agriculture has never been included within the provision of the Wage and Hour Act in general, but particularly from the fact that every experience that agricultural producers have had with the Department of Labor, without exception so far as I know, has been an unfortunate experience, and one which they regret, so as to make them look with apprehension upon the giving of rather plenary authority to the Department of Labor, the Secretary of Labor, and the Administrator of the Wage and Hour Act over the field employees of agriculture in all its phases.

From my own experience, I know something of these unfortunate experiences, because when the Wage and Hour Act was first enacted, I was practicing law in the State of Florida, and one of the first regulations promulgated by the Administrator was the so-called area of production regulation, which, in effect, allowed an exemption, even to the workers for cooperatives, only within a short radius around the plant where the packing was done, though it was done for the producers themselves who had produced the fruit. It happened that I brought a suit against the Department of Labor and the Wage and Hour Administrator on this matter and prevailed in the lower court, but was knocked out at the higher levels on the grounds of jurisdiction, pure and simple, requiring that the parties should come to Washington to institute suits upon such matters.

That particular regulation worked then and has continued to work grave hardships upon many of our agricultural industries in my State and in other States, so as to leave a very bad taste in the mouths of bona fide producers in my State.

The second matter of which I wish to take note is something well known to every Senator, and that is the regula-

tions and the administration by the present Secretary of Labor on the matter of certifying the need for and the right to have brought into this country laborers from Mexico, Canada, or the British West Indies, as a supplemental labor force to be added to the domestic labor force when conditions require it, to enable the harvesting of our perishable crops. We were very greatly disappointed by the lack of understanding of this important question on the part of the Secretary of Labor and his employees. It is needless for me to cite the fact, because it is well known here, that there have been many losses sustained by reason of the very drastic administration of what should have been a mere administrative detail granted by the law to the Secretary of Labor—the mere certifying of the need for labor and the number of laborers who should be brought in.

Senators will remember that only last year, in an issue made here on the floor of the Senate, there was a tie in the votes of the Senators present on the proposal to transfer much of the authority of the Secretary of Labor in regard to this matter to the Secretary of Agriculture. That particular vote had to be decided by the Vice President casting his tie-breaking vote. That alone should show the apprehension and the lack of approval on the part of many Senators and of much of the agricultural industry, for that matter, of entrusting to the Department of Labor important jurisdiction over agriculture. Because after all, Mr. President, the problems of the industries which primarily are subject to wage and hour control differ greatly from the problems of agricultural producers, which I shall not enumerate here.

Every Senator knows what they are—the problems of weather, frost, sleet, hail, flood, drought, insect infestation, perishability of many of the crops, heavy competition from Mexico and the British West Indies as to other crops, and heavy competition from other industries in the same field.

There are so many things in which agricultural production simply is not the same as is the handling of a manufacturing enterprise under a roof or any other job of that kind, or even many white-collar jobs, which jobs have now been brought under the Wage and Hour Act.

I think it is fair to say that there is very great apprehension in the agricultural community of this Nation because of this attempt to place the employment of agricultural personnel in a very large way under the jurisdiction of the Secretary of Labor and the Department of Labor.

Mr. President, I think another fact should make it very clear that this application is well understood, at least in some quarters. When one looks at the recommendation of the President of the United States on this subject, he will find that the President very carefully left out of his recommendation for an extension of the Wage and Hour Act any extended coverage of agricultural workers.

I think the President was much wiser in that regard than have been those who

now attempt to place agricultural labor under the control of the Secretary of Labor.

Mr. President, our amendment would simply strike those provisions of the pending bill—H.R. 13712—extending minimum wage coverage to farm workers.

We are all aware that the history of wage-hour legislation is that of progressive escalation year after year; more narrowly circumscribed exemptions; broader coverage; increased minimum wages; and reduction of overtime exemptions. Let no one be under any illusions. Once covered, agriculture will eventually go the same way and will have the same standards required of industry imposed on it. The coverage of this bill is merely a "foot in the door" approach.

I think most Senators know that is the case. If they do not realize that this is the case, they ought to read the recommendation of the Secretary's Advisory Committee on Agriculture, which committee advises the Secretary that they think all agricultural labor ought to be placed on a labor basis that is comparable to industrial labor. On the very face of it, that recommendation ignores the important differences between agricultural and industrial labor.

Once the principle of minimum wage coverage of agriculture is accepted, there is little doubt but that it will be expanded and the minimum wage increased.

Thus, this amendment is absolutely necessary to the maintenance of a strong, productive American agriculture.

The essential point of this issue is the impact of minimum wage coverage on farmworkers and farmers. No one can seriously argue that employment is not affected by wage levels. Every employer finds that a point is reached at which additions to the work force will not return their cost at the going wage. The number of jobs in most industries, within certain limits, varies with the cost of labor inputs. We also know that capital goods are competitive with labor. The utilization of labor and capital depends on the price and availability of each. Increasing wage rates obviously enhance the incentives for substituting capital for labor.

Mr. President, the total farm population in the United States as published by the Department of Labor in January 1966, shows that in 1940 the farm population was 30.5 million, in 1960 it was down to 15.5 million and in 1964 it was down to 12.9 million.

In addition, from the same source, the average annual hired farm labor employment in 1940 was 2,679,000; in 1960 the average was 1,869,000; and in 1965 the average was 1,484,000.

In July 1966 the number of hired farmworkers was 13 percent below the corresponding month of 1965.

Farm wage rates, on the other hand, have shown a marked increase over the years. In 1964 the per hour rate without room and board, as reported by the Department of Agriculture, was \$1.08. In 1965, it rose to \$1.14. And in July 1966, it was \$1.26. In Florida this year the average wage for citrus workers, our

No. 1 agricultural industry, is \$1.97 an hour.

The figure of \$1.97 an hour is taken from a letter from Mr. Willard Wirtz, the Secretary of Labor. I shall not disclose the person to whom the letter was addressed. The letter is dated March 17, 1966.

This is what the Secretary of Labor says about the Florida citrus worker:

Industry records show an average wage of \$1.97 an hour; our own audits of citrus payrolls show a slightly higher figure. The indications are that less than 10 percent of the workers at any one time made less than the old minimum of \$1.15 an hour. With the exception of one grower's payment of an additional \$47 to his crew in one pay period, there has been no need for make-up pay.

That quotation is from a letter of the Secretary of Labor under date of March 17, 1966.

I think it is important also to note that most farmworkers are not regularly attached to the Nation's labor force.

According to a Department of Agriculture report, "The Hired Farm Working Force of 1964," of a total work force in that year of 3,370,000 persons, 2,293,000 or 68 percent worked less than 75 days. Only 20 percent of the total worked 150 days or more.

That report also shows that only 1,036,000 persons had farmwork as their chief activity. Of the remainder, 12 percent were engaged in nonfarm work; 3 percent were unemployed; and 54 percent were not in the labor force—this group consisting largely of women keeping house and children attending school.

These facts on the farmwork force give us the necessary background to consider the issue of extending minimum wage coverage to this work force.

If there is added to the average farm wage rates, the value of perquisites furnished, most workers earn above the minimums proposed by the pending bill. However, this does not mean that a minimum wage would be unimportant in this area. On the contrary it would detrimentally affect both farmworkers and farmers.

The provisions of this bill are aimed primarily at those farmers with high seasonal labor requirements. While these producers may not need to employ many workers for most of the year, they do require intensive labor inputs at harvest.

Mr. President, here is another of the very great injustices of this bill. The bill bases its coverage of agricultural workers upon an average of seven workers employed by the farmer for one quarter in the year. If he had that average of seven workers for one quarter in the year—or about 500 man-hours of work—he would be covered for the entire year, and for all of his labor force.

That farmer would be required to keep all of the records which are required to be kept in accordance with the regulations of the Wage and Hour Division. He would be subject to investigation and inspection by the field agents of the Wage and Hour Division. He would be put to very considerable additional expense in addition to having his workers

brought under the bill at a time when there are comparatively few workers engaged.

May I say, Mr. President, that because the nature of such farmwork is seasonal and temporary, farmers generally hire all available persons at harvest. They accept whatever qualifications that the employees bring to the job. And because agriculture is not susceptible to the type of work regulation that assembly line production in industry permits, farmers have a most limited opportunity to set work standards.

With the establishment of an agricultural minimum wage, the least capable of the farm work force would find jobs closed to them. For the most part, these persons are unable to find employment in other industries. Thus the chance for any type of employment would virtually be closed to them. We have already seen the extent to which farm labor has declined. This trend will certainly be accelerated if a minimum wage is applied to agricultural workers. As farmers seek to reduce their labor force and costs, the process of mechanization will surely be speeded. Mechanization and the employment of labor-saving devices generally means greater efficiency. It should be encouraged.

But to force it by creating an artificial scarcity of labor is premature and costly. Not only will such action reduce job opportunities in agriculture, but also, many small farms will be forced out of business in the process.

The PRESIDING OFFICER (Mr. MONROYA in the chair). The 15 minutes of the Senator have expired.

Mr. HOLLAND. I yield another 10 minutes to myself, Mr. President.

Mechanization does not proceed at its own pace, independently. Although many factors are involved in capital investments, the employment of machinery is most responsive to labor availability and economic costs.

This is illustrated by a comment in the Department of Agriculture's January 10, 1966, issue of Farm Labor:

Since the use of foreign workers has been restricted by the repeal of Public Law 78, the need for and use of mechanical harvesters have increased considerably.

Obviously, farmers invest in labor saving equipment when it is economical for them to do so vis-a-vis labor availabilities and costs.

Contrary to the arguments of some, small farmers will not be benefited by raising farm wages. Although the case is frequently made that small farmers compete with large producers and that the income of the small farmer will be helped by establishing a minimum farm wage, the contention is fallacious.

The practical fact is that coverage of farms which meet the man-day test required in this bill—that is, the 500 man days of work in one-quarter of the year—will force smaller farms to pay the rates of their larger neighbors in order to compete for labor or else to use the least efficient workers.

This really is the way the thing will work out. The least efficient labor force will be available to the small farmer. Producers of high labor requirement

crops, regardless of size, compete with each other and nearly all of them hire their harvest labor.

There will be exceptions, but as a general rule the hired labor input per unit of production on small farms engaged in producing a high-labor requirement crop, such as fruits and vegetables, will usually be greater than on larger farms. The reason this is so is that the larger farmer probably has mechanized a larger portion of his total operation, and has later models and larger equipment.

Furthermore, if the upward trend in farm wage rates is accelerated, the large farmer will be the one who can purchase labor-saving equipment. The larger farmer usually has a better chance of borrowing money or otherwise acquiring the necessary capital. The crucial element, however, is that many small farmers do not have the volume of production necessary to economically spread the cost of equipment. For them the cost of equipment per unit of production is excessive.

The current outlook for farm labor indicates that during the next 2 or 3 years, farm wages will rise more rapidly than they have in recent years, employment of farm labor will decline more sharply, farmers will make heavy investment in labor-saving machinery and equipment—on a crash and, therefore, inefficient basis—marginal and/or small producers of high labor requirement crops will drop out in substantial numbers, there will be a significant migration of production and processing of such crops from the United States to Mexico, the British West Indies, and the Latin-American area generally, and a corresponding decline in employment in related processing and marketing concerns.

I might add, Mr. President, that there has already been a notable increase in migration of production and in migration of processing, to Mexico, to various parts of Latin America, and to the British West Indies.

All of these trends would be accelerated by the enactment of minimum wage legislation—not primarily because of the increase in wages resulting from such action, but because of the burdensome impracticality of applying minimum wage regulations to an industry in which so much employment is irregular, casual and temporary, where there is such a wide variation in the productivity of the work force, where family employment—and payrolling—are common, and where perquisites such as housing, meals, utilities, transportation, and so forth, would have to be evaluated.

Mr. President, I believe that one of the less reasonable provisions of this bill is that requiring the Secretary of Labor to fix the value of housing, meals, utilities, transportation, and so forth—perquisites which come to the workers—to be added to the cash the worker receives, in determining what his wage was. How can either the Secretary or his field force do such a job?

In speaking of migration of production and processing from the United States to other areas, there is still another factor which certainly deserves discussion in connection with this amendment, and

that is the matter of foreign competition.

On June 23, I introduced Senate Joint Resolution 171, providing for the removal of certain agricultural products from the Presidential list of items to be considered for tariff reductions under the Trade Expansion Act of 1962. At that time, I warned the Senate of what, in my opinion, were some of the more serious consequences of extending minimum wage coverage to farm workers.

Certainly, anything that adds to the costs of American farmers will be to the advantage of their competitors. American agriculture's competition is worldwide and aggressive.

Consider just the impact of Mexican agricultural exports to the United States. U.S. imports of just fresh market fruits and vegetables rose from 5,999 car and carlot equivalents in 1955 to 21,502 in 1965—or almost four times as much.

The State of Florida is a major producer of citrus, strawberries, and tomatoes among other agricultural commodities. The upsurge in Mexican orange and tangerine production is illustrated by the jump in the number of trees—from 14,500,000 in Mexico in 1961 to 34,900,000 currently. Fresh tomato exports from Mexico rose to a record 265 million pounds in 1965, and all indications are that Mexican tomato exports will rise again in 1966. The trend in strawberry exports is equally alarming. Our 1965 imports of fresh strawberries was 6,442,000 pounds. Frozen strawberry imports were 53,866,000 pounds. Just 4 years ago imports of these commodities were 895,000 pounds and 32,281,000 pounds, respectively.

It might be interesting to note the minimum wages in Mexico for an 8-hour day.

For 1965-66 these are reported as \$1.72 per day on the west coast of Mexico, \$1.48 in Veracruz, and \$1.42 in Montemorelos. Social security adds about 10 percent to these rates. Skilled wages are higher, but few are paid over \$3 per day. Of course, these trends in U.S. imports will continue if costs of production in this country continue to increase. We really do neither the farmworker or the farmer any good at all if the effects of our action contributes to the deprivation of their livelihoods. Let me substantiate this by quoting three eminent economists, Prof. James Tobin, the late President Kennedy's economic adviser, Prof. Arthur Burns, former head of President Eisenhower's Council of Economic Advisers, and Prof. Gottfried Haberler of Harvard University.

Professor Tobin said:

People who lack the capacity to earn a decent living need to be helped, but they will not be helped by minimum-wage laws, trade-union wage pressures or other devices which seek to compel employers to pay them more than their work is worth. The more likely outcome of such regulations is that the intended beneficiaries are not employed at all.

Professor Burns said:

The broad result of the substantial increase of the minimum wage in recent years has therefore been a curtailment of job opportunities for the less skilled workers.

And Professor Haberler said:

Raising the minimum wage would thus be an irresponsible antisocial measure, reducing job opportunities of the poor, promoting inflation and retarding growth.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLAND. Mr. President, I yield myself 5 additional minutes.

Mr. President, we frequently hear several arguments in support of agricultural minimum wages as well as for increased minimums generally.

One of these is that purchasing power will be increased. The fact is that increases in wage rates to one group of people represent cost and price increases to others. Wage increases do not necessarily increase total demand for goods and services. They only redistribute demand. The increased contribution to total demand of those who get an increased wage is largely offset by the reduced demand of those who pay the increased price for them.

Another argument propounded by the advocates of minimum wage coverage for farmworkers, is that wage rates have lagged behind productivity in agriculture. It is true that agriculture has shown amazing gains in productivity over the years. But the greatest gains in productivity have come in those crops which lend themselves to mechanization and the use of other labor saving devices. This improvement has been particularly noteworthy in such crops as grains, soybeans, and cotton, for example. But there remain a large number of commodities where productivity increases have been relatively small. These include citrus fruits, strawberries, most deciduous fruits, asparagus, and sugarcane. These are among those crops which require substantial amounts of hand labor. Interestingly, this bill would apply to a minimum wage to those commodities for which productivity increases are actually the smallest of any segment of American agriculture.

A third point which will be raised is that minimum wages in agriculture will tend to equalize competition between various areas and regions. This might be true, temporarily. But in the long run, farm wage rates in labor demand States will have to be higher than in supply States. And the reason for this is simple. Workers located in the supply States must have some incentive in the demand States to attract them. So as a practical matter, to the extent that wage rates are forced upward in certain areas of the country, they also will likely be increased in the higher wage demand States. Little will be gained in those States by the passage of an agricultural minimum wage.

The effects of an agricultural minimum wage may be summarized as follows: it would force many smaller producers out of business.

Increased cost of production is forcing many small producers out year after year. I do not have to state here what every Senator knows: That that has taken place. Small producers have been literally melting from the scene.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLAND. Mr. President, I yield 2 additional minutes to myself.

In addition, it would require some producers to shift to less labor intensive crops at a possible reduction in income to them and likely would aggravate the surplus problems of certain other crops;

It would undermine incentive methods of payment which would require growers to pay some workers more than their productivity warrants and to increase their supervision;

It would add greatly to farmers' record-keeping requirements;

It would increase competition from foreign produced agricultural commodities; and

It would reduce employment opportunities, particularly for that portion of the work force most in need and least capable.

At a time when our economy is characterized by reduced unemployment, high prices, and a war footing, it would be folly for us to add to inflationary fires.

I for one think it highly significant that the President's message to this Congress on the wage-hour amendments did not recommend the inclusion of farm labor in the Fair Labor Standards Act. Agriculture is unique among American industries. By its very nature it does not lend itself to minimum wage legislation.

I urge the Senate to accept our amendment.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. HOLLAND. I am glad to yield to the distinguished Senator from South Carolina.

Mr. President, I yield myself such time as may be necessary for me to receive and answer the comments of the Senator from South Carolina.

Mr. THURMOND. Mr. President, I have listened very closely to the address by the able Senator from Florida, I wish to take this opportunity to commend the Senator from Florida for his penetrating and comprehensive address which he has just delivered to the Senate. I think that it is one of the finest addresses that I have heard on this subject. I wish to associate myself with the remarks of the Senator.

Mr. President, I want to say further that today the farmers are caught in a price squeeze. They have to pay more for what they buy: farm machinery, automobiles, clothing, and just about everything they buy. But they are not getting as much more in proportion. In some cases they are getting even less. This price squeeze is having very detrimental effect on the farmers of our country.

In my judgment, if we bring agricultural workers under the Fair Labor Standards Act we are going to set back agriculture, and we are going to increase the price of food to the consumer because that is bound to result. So, in the end, Mr. President, it seems to me that we are doing a great injustice to the farmers and to the public.

I sincerely hope the amendment of the distinguished Senator from Florida [Mr. HOLLAND], in which I had the pleasure

to join him as cosponsor, will be adopted by the Senate.

Mr. HOLLAND. Mr. President, I thank the distinguished Senator from South Carolina for his gracious remarks.

I wish to add that every time more small farmers are knocked out of existence and every time the farm labor force is reduced—and that would be the effect of this minimum wage—you add to the horde of people pouring into the cities. I have heard our distinguished liberal friends argue to the high heaven that the real problem of this Nation is in the ghettos of the cities, and the inability of the cities to take care of the huge migration of people from the country.

What are Senators thinking of when they adopt a bill that would greatly accelerate this flow of people—unable to make a living in the country—to cities where they are not wanted and where there is no room for them?

Mr. THURMOND. I thank the Senator for what he has had to say on this subject.

Mr. PEARSON. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield to the Senator from Kansas.

Mr. PEARSON. I am pleased to be a cosponsor of the amendment and wish to compliment the Senator from Florida for his comprehensive statement.

To the Senator from Florida I should like to direct this inquiry. He stated in his prepared speech that in 1938, when the measure was first passed, farmers were exempt at that time, and in the four times since that measure has been amended, the farmers have been exempt on every occasion. Is that correct?

Mr. HOLLAND. That is correct. If that was sound judgment on the part of Congress at that time—and I think it was—it is even sounder judgment now. With all the migration of production outside the country, and the migration of the processing out of the country, and all of the enlargement of our competition with farm crops with similar production elsewhere in the world, and the many other ills affecting agriculture in general, I believe that this is the worst time, since the bill has come up, for any suggestion to be made to have it extended to cover agricultural workers.

Mr. PEARSON. Let me inquire of the Senator, each time this legislation has been amended it has been for purposes of increasing minimum wages or extending its coverage; is that not correct?

Mr. HOLLAND. That is certainly true. It has come to be an almost annual acceleration. We see it in the pending bill. Two or three years ago, we passed a bill for the first time going across State lines to cover stores which limited the value of their annual business to \$500,000 a year. In the pending bill, it is proposed to cut that in half and reduce the amount of business to \$250,000 a year, which will greatly increase the number of employees who will be covered by this law, if it is enacted.

I call attention again to the fact that they are certainly intrastate workers rather than interstate workers.

Mr. PEARSON. Let me also inquire of the Senator if farmers now included in the bill will not, in future years, when other amendments are added to the act, also be accelerated more and more into the minimum wage, hours of labor, and so forth?

Mr. HOLLAND. I certainly do. I have already quoted in my remarks the recommendation of the so-called Advisory Council to Agriculture which serves the Secretary of Agriculture suggesting that they should be put on rates and paid a comparable rate with those now engaged in industry. This is just getting the foot in the door, or the camel's nose under the tent flaps, and everyone knows it. If we deliberately take this step, we certainly will have only ourselves to thank for what will surely follow.

Mr. PEARSON. I want to thank the Senator from Florida and ask him if he would yield me 5 minutes at this time.

Mr. HOLLAND. I want to thank the Senator from Kansas and also the Senator from South Carolina for joining me in cosponsoring the amendment. I shall be glad to yield to the Senator from Kansas, as soon as Senators who want to ask me questions on the amendment are finished.

Mr. YOUNG of North Dakota. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I yield.

Mr. YOUNG of North Dakota. I, too, wish to commend the Senator from Florida for an excellent speech. I am particularly interested in the last part of his very fine address in which he stated, as I recall, that agriculture does not lend itself to this kind of wage control.

This is very true. Oftentimes a farmer has to depend on members of his family, children, older men and women to do the work, or unskilled workers in this field. One skilled person can do five times as much work as an unskilled farmworker. In order to get his crop harvested, a farmer must sometimes depend on this kind of labor. Therefore, if we increase minimum wages so high, the farmer will have no alternative but to let his crops go unharvested or force him to very uneconomic operation.

The farmer is about the only man in business who has no way of passing on the added costs of his operation to the price of his commodity.

Thus, it presents an entirely different problem from any other industry. Anyone who has had any experience with farming realizes that.

The Senator from Florida, of course, comes from a great agricultural State, a State which has to depend a great deal on farm labor, and sometimes from without the State. Some of the legislation Congress has enacted to restrict the availability of farm labor has meant that agriculture has been expanded in Mexico and other countries to the point of taking over a sizable amount of the markets in this country. If we go further and further in this direction, this will most certainly be the case. Particularly with respect to some commodities—milk, for example, the time may not be far off when milk will be sold at

much higher prices and then be in short supply. It will mean much higher prices to consumers and especially of such crops as fruits and vegetables.

Mr. HOLLAND. I thank the distinguished Senator from North Dakota. I want the RECORD to show that I do not believe the farmer has any better friend in Congress than the distinguished Senator from North Dakota.

The same comments can be made about the Senator from Kansas [Mr. PEARSON], and the Senator from South Carolina [Mr. THURMOND].

The Senator from Kansas raised the question as to the progressive nature of any approach made in the bill, that we are simply going up and up. I have spoken in this Chamber of the fact that I have mentioned the recommendation from the National Agricultural Advisory Commission to the Secretary of Agriculture. I want to read this part of the resolution of that commission on this subject.

It says: .

We recommend minimum wages and improved working conditions in terms adapted to agricultural pursuits be extended by stages.

I repeat—

... by stages to hired farm workers on a national basis until comparability with industrial minimums is attained.

That is the way they are going. That is the way they are heading, in the offering of the pending legislation.

I thank the Senator from Kansas for bringing up that point.

Mr. JORDAN of North Carolina. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I am glad to yield to the Senator from North Carolina.

Mr. JORDAN of North Carolina. I appreciate the distinguished Senator from Florida yielding to me at this point, because I cosponsored the amendment which he has offered.

Mr. HOLLAND. And I am really very happy to have the Senator as a cosponsor.

Mr. JORDAN of North Carolina. The Senator from Florida has done a magnificent job in bringing out the facts on this particular facet of the whole question.

I had the pleasure and the honor of serving on the Committee on Agriculture and Forestry with the distinguished Senator from Florida, and he knows that we all know the committee spent days and days trying to save our farmers, and trying to enact legislation to help them.

I cannot come to the floor today and vote for something which will put our farmers out of business.

Mr. HOLLAND. Yet that is what we are being asked to do.

Mr. JORDAN of North Carolina. Yes, that is what the bill would probably do.

North Carolina has a great number of small farmers. They grow a great many peaches. These are handpicked. A great many apples in the mountains are also handpicked, as well as berries in the eastern part of the State. There are also a great many strawberries grown in North Carolina, but today we are losing

that market to the foreign market. We know that Mexico has taken to flying a great many strawberries into the United States, because our labor costs have risen so high that Mexican farmers can still grow them cheaper down there and yet fly them into this country.

Mr. HOLLAND. The Senator is correct.

Mr. JORDAN of North Carolina. If this situation keeps on, particularly in small crops such as those grown in Florida—celery, and that kind of produce—the foreign markets will take them over, because we cannot compete. Thus, we will be contributing to putting our farmers out of business instead of trying to help them. Cotton will take care of itself because the big machines can do it economically, as well as the wheat combines. That is not the problem, though, it is to our small farmers which we will be putting out of business. In the first place, the small farmers do not have the bookkeeping system to keep up with all these wages, in addition to the bookkeeping which social security taxes entail, and unemployment compensation. The small farmer cannot keep up with all that. He cannot survive for long.

I want to commend the Senator from Florida for the fine speech he has made and for presenting his amendment, which I wholeheartedly support.

Mr. HOLLAND. I thank my generous friend from North Carolina for his kind comments.

Mr. STENNIS. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I am happy to yield to the Senator from Mississippi.

Mr. STENNIS. At this point, Mr. President, I want to commend the Senator from Florida for a very fine presentation. The Senator from Florida and I have been very much interested in this problem for a long time. Few Senators understand the many facets of agriculture and its problems as well as the Senator from Florida.

Mr. President, if I might take just half a minute, the Senator from North Carolina [Mr. JORDAN] just mentioned that cotton was not a problem, that the mechanical cottonpickers can take care of cotton. By far a majority of cotton growers do not own cottonpickers and cannot gain access to mechanical cottonpickers. They will be adversely affected by the pending bill.

Would the Senator from Florida allow me 5 minutes on his time later?

Mr. HOLLAND. I will be very glad to yield to the Senator but wish first to wait until Senators have finished asking me questions.

Mr. STENNIS. I will wait until they have finished and then I should like to have 5 minutes.

Mr. JORDAN of North Carolina. Mr. President, if the Senator will yield for a correction, I thoroughly agree with the Senator from Mississippi that on the small cotton farm of 2, 3, or 4 acres, the cotton is hand picked. But the big plantations have pickers, and they will not be out of business as a result of this bill. It is the small farmer who will be.

Mr. HOLLAND. It is very clear that this bill is aimed primarily at the small

people. I have said that before. It does not cover the big herdsmen throughout the country, for example.

Mr. STENNIS. The Senator is correct. Relatively few cotton growers have that kind of machinery available. No one has invented a machine to chop cotton in addition to all the other tasks necessary in growing a crop.

Mr. HOLLAND. I thank the Senator, and I now yield to the distinguished Senator from North Carolina [Mr. ERVIN].

Mr. ERVIN. Mr. President, I want to associate myself with the fine presentation and the sound position taken by the distinguished Senator from Florida. During his long service as a member of the Agriculture and Forestry Committee, he has served the American farmer well. I know of no one better versed in the problems in the field covered by the amendment he has offered, with which I associate myself.

Mr. HOLLAND. I thank my friend for his overgenerous remarks which, I am afraid, are based on friendship, but I appreciate them nevertheless.

I am glad now to yield 10 minutes to the Senator from Kentucky [Mr. COOPER], after which I shall yield to the Senator from Mississippi [Mr. STENNIS].

Mr. President, how much time do I have left?

The PRESIDING OFFICER. Forty-four minutes of the time allotted to the Senator from Florida remain.

Mr. HOLLAND. I yield 10 minutes to the Senator from Kentucky [Mr. COOPER]. After that I shall yield 5 minutes to the Senator from Mississippi [Mr. STENNIS].

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 10 minutes.

Mr. COOPER. Mr. President, I rise to speak in support of the amendment which has been offered by the distinguished Senator from Florida, of which I am a cosponsor. It is fine that he has offered the amendment. He has served for years as an outstanding member of the Committee on Agriculture and Forestry and also on the Agriculture Subcommittee of the Committee on Appropriations. Having the opportunity to serve with him on the Committee on Agriculture and Forestry, I know his wide knowledge of agriculture and its problems.

The bill before us, would, in various sections, for the first time bring agricultural workers under the coverage of the Fair Labor Standards Act. Our amendment would strike these sections of the bill and maintain the existing exemption of agricultural workers.

Those of us who come from agricultural States know that the characteristics of employment upon farms differ sharply from those who work in industry, work in service establishments, and employment in retail stores and businesses of our communities. This is so obvious and apparent that it seems needless to speak of it.

Those who work in such business enterprises go to work and cease work at stated times. Their schedules of work continue in good and bad weather and their hours of work can be determined.

But those of us who live in the rural areas of our country, and many of us do—so does the distinguished Senator from Texas [Mr. YARBOROUGH], who manages this bill—know that these characteristics do not apply to the farms of our country. There is no set time for going to work or ceasing work except as the necessity of the farm requires. Men and women may go to work before daylight and work long hours after daylight. At other times, because of weather, they may work just a few hours in a day. The work may be seasonal. One farmer may employ 5 farmworkers or 25 at certain times in the crop year, but when the season is past he may need no one except his own family, or perhaps someone to help him with certain chores now and then.

The Department of Labor—and I say the Department of Labor—for as the Senator from Florida [Mr. HOLLAND] has said this is a Department of Labor bill—is attempting to legislate in the field of agriculture. The difficulty of the Department of Labor in finding a standard of uniformity for farms, by which to bring them under the Wage and Hour Act, simply establishes that the standards which apply to certain businesses do not apply to farms.

Today, under the law, retail businesses are exempted if the volume of sales is under \$1 million. The bill before us would reduce that standard to \$250,000. Whatever the type of business, large or small, if it attains a certain dollar volume of sales, its employees are covered under the Fair Labor Standards Act.

There is uniformity between business establishments. But you cannot secure such a standard of uniformity between farms. The Department of Labor attempts to set as a uniform standard the use by an employer of 500 man-days of labor in a quarter in the preceding calendar year. In such a case, the employees of the farmer would be covered for minimum wages.

So, if our amendment is not adopted, farms whose sales are less than \$250,000 annually and much less might be covered, while other businesses whose sales were less than \$250,000 would not be covered. This is unfair.

It is estimated 500 man-days of work in a quarter would mean that on the average only farms employing seven or more workers would be affected. But this would not always be so, for the farm is treated as if it were a business where people work 5 days a week, and as if nothing is done on the farm on Saturday and Sunday. The cows are not milked, the chickens fed, the crops are not tended. And what about dairy farms, where work continues 7 days a week? The truth is that these new sections of the bill would cover some farms employing fewer than seven employees.

There is another section in the bill that I do not believe has been mentioned on the floor, and I now refer to it. What is a man-day? In one section the criterion of coverage is stated to be an aggregate of 500 man-days in any one calendar quarter. In another section of the bill, section 103(u), a man-day is defined as any day during any portion of

which an employee performs any agricultural labor.

I am sure the manager will agree with me, as I propose a theoretical case, which might not occur but could occur. If for 3 months there were to be a drought, or floods, or continuing rains, and if a 7-man force came to the farm for work everyday, and stayed an hour in the morning, worked an hour, and then went their way, at the end of 3 months, if they had, as a group, worked 500 hours, it would be counted as 500 man-days under the act, and the farm employer and his employees would then come under the coverage of the act.

This illustrates the vagueness and the unfairness of the standard. It shows that the Department of Labor is attempting to apply to farm operators the same standards that it applies to business, although they are entirely different.

I will ask the Senator from Texas if it is not correct that the definition of a man-day is any part of a day actually worked?

Mr. YARBOROUGH. That is correct. If a man came to the field and worked only a half-hour, he would be considered as having worked that day. If he worked 18 hours a day, he would still be considered as having worked 1 day. So if a man works 13, 14, 15, or 16 hours—and I have worked in the wheat harvest that much or longer—it is still counted as 1 man-day. This provision was drawn up to favor the farmers, and not to favor the employees.

Mr. COOPER. If a man employs someone to do his chores for a few hours every day, that also is a man-day, is it not?

Mr. YARBOROUGH. Yes, if he works as a hired employee for part of a day. That is to keep the employer and employee from having to keep a timeclock or a bunch of records.

Mr. COOPER. Then would not the Senator agree that the proposition, spelled out in the report and speeches, that it would only affect the farmer who employed, on the average, seven or more employees, is not an absolute figure?

Mr. YARBOROUGH. I think that is correct. To me it is inconceivable that a farmer would hire somebody to come and feed his hogs in the morning, somebody else at noon, and someone else in the afternoon, and be willing to say, "I have had 3 full days of employees." Conceivably, he could have a man for an hour each day, and seven men per day, but I never saw a farmer like that.

Mr. COOPER. If a farmer had a seasonal crop, he might have 15 or 20 employees for a short period, but the rest of the year, if he employed only 1 or 2 he would still come under the provision?

Mr. YARBOROUGH. No; this is by quarters.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COOPER. Will the Senator yield 2 more minutes?

Mr. HOLLAND. I yield 2 additional minutes to the distinguished Senator from Kentucky.

Mr. COOPER. Mr. President, I wish there were time to discuss at greater length the unfair provisions and effect

of this new amendment. A uniform standard is impossible for farms.

The prices which farmers receive for their production in relationship to parity is lower than at any time before World War II. We want farm labor to be paid fairly, and wages for farm labor have advanced, and on many farms, houses and gardens are available to labor. But a farmer with low prices can only pay what his produce can bear.

He will be forced to go out of business or, if he is able to do so, mechanize his farm. This bill will drive away from the farm the young, the old, and the unskilled, and they will march toward the cities, where there are too many unskilled and untrained people today.

I have supported minimum wage bills. I have supported organized labor in their worthy objectives. But we know that this is a movement toward, finally, the organization of farm labor over this country. This, for the Department of Labor, is a back-door way of doing it.

I should like to see some people in this country remain free from the conformity which is enveloping our country. The farmer has been an individualist. He has been a refreshing figure in our country. But we seem to drive always further and further toward conformity. I hope very much that our amendment will be adopted, and the present exemption from agriculture will be maintained.

Mr. PEARSON. Mr. President, will the Senator yield for a question?

Mr. HOLLAND. Mr. President, I have agreed to yield 5 minutes to the Senator from Mississippi [Mr. STENNIS], after which I shall be happy to yield 5 minutes to the distinguished Senator from Kansas.

Mr. STENNIS. I thank the Senator.

Mr. President, speaking primarily to Senators who are not familiar with farming operations and the actual problem the farmer is up against, I point out, first, that the farmer sells only the raw product, usually—the raw product, where the profit is never large. The profit comes in the processing, all the additions and refinements, the retailing, and the things that go on after the farmer has relinquished his crop. All he receives comes from the initial sale of the raw product.

The next thing I wish to point out, Mr. President, is that there is a tremendous difference in the productive or yield capacity of different types of land. We are legislating here for the very poor land; it may be poor, but it is all the people who depend on it for a living have. A farmer's land may be medium production, or it might be of higher fertility, or of the highest; but the poor land is bound by this law, just the same as all the rest.

Further the farmer also has to carry the burden of seasonal fluctuations. In an industry, if the owner puts a certain amount of material into a machine, he knows about what will come out of it. A farmer never knows, when he plants, what the season is going to mean to him, or what the yield will be, or whether there will be any yield.

Another thing—and we might as well admit it—is the fact that we are talking about, generally speaking, with all defer-

ence to them, a poorer type of worker. His production per hour is lower, and generally he has less ability and less judgment.

So, by enacting this legislation, we would be piling one burden and one uncertainty on top of another. The farmer is called on to carry all the load. Mention has been made here of the cotton farmers. Mr. President, only a very small percentage of the people who live on the land and produce cotton have mechanical cotton pickers, or have access to mechanical cotton pickers. The picking must be done by hand. There are many other things about a cotton crop that have to be done by hand, or largely by hand, like cleaning out the grass, and the thinning out of the cotton, or chopping it, as it is called. We are getting right down to the hub of things, where these matters count, and poor land or medium land cannot carry the load that we would be imposing by this bill.

I refer to my home community where we had many small farmers when I was a small boy.

There was a day when that was a very happy, thriving, industrious community. Everybody worked. A man's word was his bond. Everybody paid his debts, and almost everybody went to church. There might have been poverty, according to present standards as we have heard them stated recently, but we did not know it; and we were not expecting anything from a Government program.

Now that situation has changed, of course, and the very ones who are now preaching about the sin of poverty are, or a great many of them, supporting this bill, which would create the very conditions about which they complain. Because if the freight is more than the traffic will bear, we are going to destroy the employer, and we will leave the employee who is willing to work without a job.

Nothing could be more serious. No legislation will come before the Senate this year that is of any more serious consequence to these little people than this very measure we are talking about here, which will finish crushing the little life remaining in the small farm, and then, as those people drift to the cities, we will hear complaints from the very groups some of whom are sponsoring this bill about the overburdened condition of the cities, because they have to take care also of the people who are coming in from the farm.

Mr. President, where are we going? We are going in opposite directions on this bill, and I hope there will be enough Senators who will realize that fact, who will face the realities of life and will vote to let the exemptions, as they apply under present law, continue to apply.

I thank the Senator for yielding.

Mr. HOLLAND. Mr. President, I thank the Senator for his remarks. I am happy, now, to yield 5 minutes to the distinguished Senator from Kansas [Mr. PEARSON].

Mr. PEARSON. Mr. President, I think the Senator from Mississippi makes an excellent statement, and I also wish to say that I think the Senator from Kentucky raised a very important point, that you cannot compute hours worked

on the farm the same way you compute them in a factory or a store or some other place.

Indeed, the committee recognized that. On page 10, the committee report states:

The committee exempted from the agricultural coverage provision of the bill 10,000 employees who are principally engaged in the range production of livestock.

The committee says these are peculiar circumstances that cause this exemption, and the reason for it, as stated in the very next paragraph on page 10, is that these employees in the range production of livestock are quite often on a standby basis, waiting for the time and the need to arise when they must work.

The Senator from Kentucky makes the very same point, with great validity, in regard to farmworkers. Mr. President, I know that the manager of the bill will indicate to us that this provision will have an effect only on the large producer. 500 man-hours in any given quarter will automatically make this bill apply to any particular farmer in the following calendar year.

A retail merchant who may have more than 7 people working for him—he may have 15, 16, or 17—and who does less than \$250,000 gross business during a year will be exempt. However, the farmer with 7 employees and 500 man-hours per day would fall under the coverage of the act for the entire year.

The point will be made that this legislation is only for the large producers, and that might be so to a large extent. However, the small producer, when he goes into the market for farm labor, will compete with the large producer. He is not going to hire employees unless he meets the minimum requirement, and so we might as well put them all under this provision.

I think the history of farming operations will show that, where the cost increases and the price-cost squeeze gets tighter and tighter, the first step of the farm producer is to mechanize and go to equipment and industrialize as much as he can.

If he does this under the minimum wage requirements, this will be another step to push the family farmer off the farm, as the Senator from Florida illustrated so vividly in his statement.

I think also, as has been pointed out, the bill provides in 1967 for \$1 an hour, in 1968 for \$1.15 an hour, and in 1969, for \$1.30 an hour. Every time the minimum wage is modified, it will require a greater minimum wage increase—justified, I am sure, in many industries.

The wages and hours covered under the bill since 1938 have a good and valid purpose.

There will also be an increase, and the net result will be to place the family farmer in precisely the same position as the great producer in regard to dipping into the labor market.

For whatever validity the American farm has on the scene today, the pending bill is a blow against that institution of American life. I would hope that indeed the manager of the bill would make some statement regarding the range cattle-raisers and the farmers I have mentioned here today.

Mr. HOLLAND. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Florida has 22 minutes remaining.

Mr. HOLLAND. Mr. President, I thank the Chair. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. YARBOROUGH. Mr. President, I think the issue is very clearly drawn here.

It is a matter of preserving the family farmer in America. If we want to preserve the family farmer in America, we will vote against this amendment.

The purpose of minimum wage legislation is partly to protect these low paid people and partly to protect the family farmer in America.

We have 3.5 million farms remaining in our country today. Two million of those farms do not hire even one farm laborer. The pending bill covers only 1.6 percent of the farm operators in America. It covers the big industrialized farms with hundreds of employees.

The bill is a bill to try to save the family farmer so that the man will not be driven off the farm and into the city and into economic oblivion.

I have received a letter from the National Farmers Union. For those Senators who do not know it, the National Farmers Union does not represent non-farmowners. It is a union of farm-owners. I have been to their conventions. The National Farmers Union is composed of farmowners.

The National Farmers Union, in a letter under date of August 22, 1966, have this to say:

The family farmer asks you to protect his farm income by voting for a minimum wage for farm labor.

The National Farmers Union, through convention action, strongly supports the minimum wage bill and its provision for a minimum wage for farm labor as protection for income for the family farmer.

No longer should the family farmer be forced to compete with 60 cents an hour labor during the spring and summer and then as a taxpayer be asked to support the same farm laborers and their families during the winter months through welfare payments.

The big operators hire them for harvest, kick them back to the city after the harvest is completed, and let the family farmers pay higher taxes with which to pay the welfare payments during the winter to keep the farm laborers alive so that the big operators may get those farm laborers back and work them again the next spring.

This bill will separate the people in Congress who are willing to save the family farmers. That is the biggest issue in the bill—whether we are going to protect the family farmer and give him support.

Texas has over 300,000 family farms—more than any other State in the Union. Corporate agriculture has not taken over in Texas, as it has in some other States. We are still the stronghold of the family farmer, with nearly 400,000 REA users, more than any other State in the Union.

I continue to read from the letter from the National Farmers Union:

This bill will cover farm laborers working on fewer than 2 percent of the Nation's farms, fewer than 78,000 farms.

Actually, the bill covers only 1.6 percent of the farms in the Nation, but those 1.6 percent employ 390,000 underpaid farmworkers; 70 percent of hired farmworkers earned less than \$1.25 an hour; 50 percent earned less than \$1 an hour; and 34 percent earned less than 75 cents an hour.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield on the time of the Senator, not on my time.

Mr. HOLLAND. Mr. President, I will take time on the bill. I ask the distinguished Senator from Texas if the Secretary of Agriculture was asked to testify and did testify on this bill. I find no record of it in the transcript of the hearings.

Mr. YARBOROUGH. I am advised that the Secretary of Agriculture did not testify.

Mr. HOLLAND. I wonder if the distinguished Senator would tell me why the Secretary of Agriculture, representing the farming community, was not asked to testify and did not testify on the bill.

Mr. YARBOROUGH. Mr. President, the distinguished chairman of the Committee on Labor and Public Welfare at that time, the subcommittee thereof, was the Honorable Pat McNamara, of Michigan, who has since passed away with a malignancy.

I cannot answer the question. Two volumes of testimony were taken while Senator McNamara was chairman. One volume of testimony was taken in Puerto Rico under the chairmanship of a special subcommittee. Another volume was taken by the Migratory Labor Subcommittee of the Committee on Labor and Public Welfare. That hearing was presided over by another Senator.

Hearings were held for over 2 years. I was not chairman of the Labor Subcommittee at that time. I am not informed as to the answer to the question. The administration was asked for its views and the administration designated the Secretary of Labor to present the views of the administration.

Mr. HOLLAND. The fact is that, in the taking of testimony for 2 years, the Secretary of Agriculture was not asked to testify and did not testify at the hearings.

Mr. YARBOROUGH. Mr. President, the Senator from New Jersey [Mr. WILLIAMS], who was chairman of the Migratory Labor Subcommittee that held one part of the hearings, advises me that the Secretary of Agriculture was invited to testify. The executive department reached the decision that the Labor Department should present the administration views. However, the Secretary of Agriculture was invited to testify, I have been informed by the Senator who presided over about one-fourth of the hearings.

Mr. HOLLAND. Mr. President, do I correctly understand that the decision was made by the administration that, not the Secretary of Agriculture, but the Secretary of Labor should speak for the administration on the bill?

Mr. YARBOROUGH. I do not say that it was the decision of the Secretary of Agriculture. It was the decision of the administration. It was an administration decision to have one spokesman. The statistics are being kept in the Labor Department. The Secretary of Labor was selected to represent the administration. I assume that he represented the whole administration, unless the contrary is shown.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield.

Mr. PASTORE. Mr. President, do I correctly understand the Senator from Texas to say that the pending bill does not cover more than 2 percent of the farms in America?

Mr. YARBOROUGH. It covers less than 2 percent. The bill does not apply to 98.4 percent of the farms of America.

A farmer must have seven workers on a farm in order to be covered.

Mr. PASTORE. All we are concerned with in this measure is 1.6 percent of the farms?

Mr. YARBOROUGH. One and six-tenths percent of the farms, and 39 percent of the workers, because the 1.6 percent of the farms are the big ones which hire 39 percent of all farm labor in America. Of the 3.5 million farms in America, 2 million farms do not hire even one man on the farm.

Mr. PASTORE. The Senator from Texas has answered my question.

Mr. YARBOROUGH. I thank the distinguished Senator from Rhode Island for his very perceptive question.

I am continuing now with this letter from the president of the National Farmers Union to me, dated August 22 of this year:

These giant farms generally have paid the lowest wages.

There has been talk about wages becoming high. The little family farmer is going out of business. He would be ashamed to pay some of the wages the big corporate types of enterprises pay.

I wish to say, Mr. President, representing the largest State in farm acreage in the Union, that I have no prejudice against the big farms. That was shown when the distinguished Senator from Maryland this year offered his amendment to limit the price crop support payments based on the size of the farm. He would deny the big farms the right to grow those crops. I have always voted for price supports, to keep a viable and prosperous agriculture. I have voted to let them have all their payments. I have voted against any limitation. But when the farmer draws the big price crop support, he should not be paying the lowest farm wages in the Nation.

This is what the National Farmers Union, representing the family farmers of America, says:

Only those corporate type and very large farms employing more than eight full-time farm workers, or equivalent, will be covered. It will not include those farmers hiring a number of local housewives and high school students to pick crops at harvest time for a week or two.

This is a bare bones bill as far as farm labor minimum wage is concerned. We urge the adoption of H.R. 13712 as it stands, by the Congress.

Signed, Tony T. Dechant.

Mr. GORE. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield.

Mr. GORE. That bare bones description would hardly fit the exemption of the large King Ranch.

Mr. YARBOROUGH. I voted against that amendment. The committee did adopt an amendment to exempt the range production cattle, and it gives those cattle raisers an advantage over a stock farmer who has a little farm and is raising a few head of stock on his farm. I do not know whether there any range production in Tennessee or not.

Mr. GORE. What is the economic difference in producing a calf on an acre that is called a ranch in Texas and on an acre that is called a farm in Tennessee?

Mr. YARBOROUGH. The Senator will have to refer to the people who supported that amendment, in order to get an answer. I opposed the amendment. I did not favor it.

I think there is an old song in Oklahoma, "The Farmer and the Rancher Should Be Friends." If we pass a farm labor bill exempting ranchers but including farmers, I do not think it will foster friendship.

Mr. GORE. Will the Senator accept an amendment to equalize the situation?

Mr. YARBOROUGH. That is not the question immediately before us. I do not know what my authority would be in that respect, the committee having voted.

With respect to the pending amendment, there has been talk about labor unions attempting to take over farmers. Most of the appeals I have had in this matter have been from labor. The appeals have come from people interested in the welfare of human beings. I have telegrams and letters from various social organizations and religious organizations.

I have a letter from the National Council of the Churches of Christ in the U.S.A., dated August 18, signed by their Southwestern field representative. In this letter they say:

I urge your support for any additional legislation to bring farm labor under the protective legislation accorded other employees in our Nation.

I continue to be appalled at the lack of concern of many Members of Congress who would continue to cripple and slowly murder the majority of our seasonal agricultural workers, and their families, when these workers have enabled us in so many ways as a nation to have an abundance and prosperity denied the agricultural worker segment of our economy. The shame of this situation is known throughout the world as testimony of our lack of concern for the farm laborer and his family regardless of race or cultural heritage.

It has been said that this legislation would raise the prices to people who buy things. The National Consumers League, writing to me on August 22, said:

We also believe that it is unconscionable to guarantee only 75 cents an hour for farm workers, which is what would be the pay for a large number, if employers are permitted to adjust their wage scales to provide a \$1.00 average hourly wage, rather than a flat \$1.00 minimum for all workers.

The economy of our country has surely reached the point where such discrimination

against our shamefully exploited farm workers is inexcusable. No war against poverty has any real meaning when a government sanctions a wage so far beneath the poverty level for a significant section of our working population.

The League hopes you will support the modest proposals of the original bill as passed by the House, rather than the provisions of the bill reported by the Senate Committee.

Mr. President, the fact is that this bill—I hate to confess this, but I am forced to, as chairman of the subcommittee—was emasculated in the Committee on Labor and Public Welfare when that committee exempted the range production of cattle and put an average in the bill as a minimum wage instead of a dollar as a minimum wage.

These are protests from people who are concerned about people as human beings.

I have a letter dated August 23, from the General Board of Christian Social Concerns of the Methodist Church:

We urge your support for strengthening provisions of S. 1986, minimum wage bill. Omission of child labor ban would represent legislative irresponsibility; 75¢ hour minimum for farm workers is indefensibly low.

We have telegrams from the Christian Social Relations Womens Division Board of Missions of the Methodist Church, the administrative director of the Latin American Bureau of the National Catholic Welfare Council.

We have a letter from the National Advisory Committee on Farm Labor, headed by Frank P. Graham, of North Carolina, and A. Philip Randolph, as committee chairman. They urge that this bill be brought back up to the House level, at least. They point out that the \$40 a week minimum wage under the average provisions that were put in the Senate amendment becomes \$30 a week:

It is thus with great urgency that we ask you to examine this new bill. Assessing forty hours of hard manual labor at thirty dollars a week in 1966 is bad enough. To ask a man to support a wife and child on it is an insult to his right to live with dignity.

We are hopeful that changes will be made from the floor to correct this impossible situation. We respectfully ask you to lend your support to the original bill as passed by the House.

The \$30 voted by the committee is indefensible, to say the least. The Senate should add more and return to the House level.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield.

Mr. COOPER. It is important to have an interpretation of certain sections of the bill. I ask the Senator to turn to page 38, section 103, which defines "employee."

Mr. YARBOROUGH. Does the Senator from Kentucky yield himself time?

Mr. COOPER. I do not know how much time I shall need.

Mr. YARBOROUGH. I will yield to the Senator from Kentucky from my time.

Mr. COOPER. I thank the Senator. I should like to describe a situation which, I believe, is familiar in agriculture—the practice of sharecropping. I know it is customary in my State, and I am sure it is true in other States, for

farmowners, or perhaps lessees, to enter into contracts with farmers to share crops. Perhaps the owner of the farm will furnish land, and a house, might furnish seed, and perhaps furnish fertilizer, depending upon the agreement that is made. At the close of the crop year, when the crop has been harvested and sold, the owner and the sharecropper will share the proceeds, usually half and half.

Would the employees of the sharecropper be considered employees under the bill, and would the farmowner be liable to pay the minimum wage to the employees of the sharecropper?

Mr. YARBOROUGH. In the many days that the bill was considered by the Subcommittee on Labor and by the full committee, the question arose time after time: When is a sharecropper an independent contractor, and when is he an employee of the landowner who rents the land? That question was debated at length. In order that there may be no doubt, the committee spelled out its intent, at pages 10 and 11 of the report, beginning with the last paragraph on page 10:

During the consideration of agricultural labor coverage, the committee discussed the issue of who is an employee of the farmer and how to determine whether a person is an independent contractor. Section 3 of the act defines the terms "employ," "employee," and "employer." It is also clear that if a person is an independent contractor and not an employee of the agricultural employer, neither the independent contractor nor his employees would be employees of such employer. Nor could the man-days worked of such employees be counted toward such agricultural employer.

In other words, if the renter, the person who rents the farm from the owner, is an independent contractor, the employees are his own employees, and not those of the owner of the land who rents it to him.

Mr. COOPER. In any case, would it be possible, on any farm, under any contract made by a farmowner or a lessee with a sharecropper, for the employees of the sharecropper to claim that in addition to their share of the proceeds of the crop, the farm owner owed them more, because of the minimum wage provisions added by this bill?

Mr. YARBOROUGH. No; not under this provision. I had not completed reading the report:

However, such independent contractor may well qualify as an agricultural employer and be subject to the coverage of the act unless otherwise exempted. This same issue was raised during the House debate with regard to the status of certain share croppers and tenant farmers. The same tests apply as stated in the House report.

The Supreme Court (in *Rutherford Food Corp. v. McComb*, 331 U.S. 722 (1947)) has made it clear that there is no single rule or test for determining whether an individual is an employee or an independent contractor, but that the "total situation controls." In general an employee, as distinguished from a person who is engaged in a business of his own, is one who "follows the usual path of an employee" and is dependent on the business which he serves. As an aid in assessing the total situation, the Court mentioned some of the characteristics of the two classifications which should be considered. Among those are—

(1) The extent to which the services rendered are an integral part of the principal's business;

(2) The permanency of the relationship;

(3) The opportunities for profit or loss;

(4) The initiative, judgment, or foresight exercised by the one who performs the services;

(5) The amount of investments; and

(6) The degree of control which the principal has in the situation.

The committee fully subscribes to these criteria and to the principle that the total situation in a given case, not just a particular criterion, must be considered in determining whether an individual is an employee or an independent contractor.

Mr. COOPER. Would it be necessary to prove in every case that the sharecropper, even though he has his share of the proceeds, was an independent contractor?

Mr. YARBOROUGH. If the renter or tenant came in and claimed he was an independent employee, yes, the Department of Labor would have to determine whether or not he was. Of course, these tests would apply.

In the section of the country from which I come, and in which I grew up, when you finished plowing ground that is called laying by. The worker would then go to work for other people. This was customary in our part of the country, whether the worker went and cut cross-ties, did other work, or went to town. That could be the case of the big operator who farmed out his employees and said, "You are my tenant," but in the average relationship there would not be any question. The tenant bosses his own time.

Mr. COOPER. The Senator knows farming.

Mr. YARBOROUGH. I do know farming.

Mr. COOPER. I would suggest this case to the Senator. After the crop has been—as the Senator said—"laid by," and later sold, the sharecropper's share of the proceeds would be \$5,000. He receives \$5,000. Could he or his employees come back and say, "I worked a sufficient number of hours to receive \$6,000"? Could he do that?

Mr. YARBOROUGH. He could not, if he was not an employee. He could bring the claim, but he could not recover.

Mr. COOPER. Suppose, after they make this contract, such as I have described, that the tobacco is put in the barn. But before it is sold, the tobacco unfortunately burns. Could the sharecropper come in then and say, "I want \$5,000, or \$1,000 for the labor I put in"?

Mr. YARBOROUGH. It would be the total situation in a given case.

Mr. COOPER. Does the Senator agree that in the background of sharecropping or renting contracts, as I have described, it is the kind of agreement where the employees of the sharecropper would not be employees of the farm owner, in the sense of coverage for minimum wages?

Mr. YARBOROUGH. Not under the sharecropping arrangements that prevailed where I grew up in Texas. There are two types. Three and four were the customary types where the tenant furnished himself with tools, horses, mules,

tractors, food, and the landowner got one-fourth of the cotton which was crop and a third of the cotton for rent.

In the other situation, he furnished the horses, mules, tractors, wagons and food and shared 50-50. That type of contract has gone out of existence, notably after the campaign of Farmer Jim, who said that this was an unconscionable contract. The Supreme Court held that it was unconstitutional. That type of 50-50 arrangement was deeply imbedded in the hearts and minds of the people in Texas, but that type of contract is practically gone.

Mr. COOPER. We have that type in my State, usually call renters.

Mr. YARBOROUGH. That is called the "furnishing" contract.

Mr. COOPER. As I understand the Senator, in the cases I have given, it would be the judgment of the Senator that the employees of the renter or sharecropper would not be employees of the farmowner for coverage designated under this bill.

Mr. YARBOROUGH. The farmowner would not be.

Mr. President, how much time do I have remaining? There are other Senators who wish to speak in opposition.

Mr. COOPER. I shall ask one question.

The PRESIDING OFFICER. There are 66 minutes remaining on the amendment.

Mr. COOPER. This will take 1 minute.

I am not trying to make a special case, but would the exemption given in subsection (3) on page 39 apply to any employer who was principally engaged in the production of livestock on any farm of any size?

Mr. YARBOROUGH. This is tied to the employee:

Any individual who is employed by an employer engaged in agriculture if such individual is principally engaged in the range production of livestock.

Not the employer, but the employee.

Mr. COOPER. Would that include employees on any type farm where they were engaged principally in the production of livestock without regard to the size of the farm or the number of livestock?

Mr. YARBOROUGH. This is range production of livestock.

Mr. COOPER. What does that mean?

Mr. YARBOROUGH. Feed production would not be range production of livestock. There are stock farms where they raise all the food on the farms, and feed cows and steers.

Mr. COOPER. Is there any limit on the number of head?

Mr. YARBOROUGH. It was written into the bill with regard to range production. There was a great deal of discussion.

Mr. COOPER. There are farmers in my State whose principal production is livestock. Would they be exempt?

Mr. YARBOROUGH. This was adopted in committee. It was discussed a great deal. This language was agreed to as the committee language. Beyond

that, I am not prepared to attempt to interpret it.

Mr. COOPER. We know that an interpretation of the bill must be made by the Senator in charge of the bill. Thus, we are relying upon the Senator from Texas to interpret this section for us.

Mr. YARBOROUGH. Other language was in there. The language was limited to range production.

Mr. COOPER. I should like to have my State receive the same protection, if it is given to another State.

Mr. YARBOROUGH. The committee exempted from the agricultural coverage provisions of the bill 10,000 employees principally working on range production and livestock. That is not a large number of people exempted. I think it could cover only those working in range production. The committee intended to adopt exemption for an employee principally engaged in range production of livestock. The committee intends to exempt only those employees engaged in activities which require constant attendance on a standby basis, such as herding and similar activities where the computation of hours of work would be very difficult.

Mr. COOPER. It is likely to reach the largest ranches in the country; is it not?

Mr. YARBOROUGH. Yes; it is.

Mr. COOPER. I do not believe that is a very elevated social object. Does the Senator?

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield.

Mr. FANNIN. Let me say to the Senator from Kentucky that the intent of this particular amendment is restrictive. It would not apply only to large ranches; it could also apply to small ranches in the West which have large acreages—perhaps several hundred or several thousand acres and a few head of stock. Perhaps there may be 25 or more acres to 1 head of stock. Thus, the amendment is not intended to apply to feed lots or to any area where the stock involved would be near headquarters. In other words, employees might be away from headquarters for weeks at a time, on the range.

A good illustration would be the Basque sheepherders who are brought to this country from Spain. They are away from headquarters for long periods of time, herding sheep. It is impractical for them to keep time or to control their hours of work. They may be in sleeping bags at night, and they may have to get up in the middle of the night because of predatory animals attacking the sheep; then they would go out to work again. Of course, that is not the common kind of farmwork in this country, such as the work in Kentucky, for example. They could be on vast ranches, but not necessarily so. This could also occur on the small ranches.

Mr. YARBOROUGH. Mr. President, there are other Senators who desire to speak in opposition to the amendment. I have been yielding so much time to

answer questions on this subject. I have no desire to cut anyone off, of course, but time is sliding by. I hope that Senators would ask for time to speak in opposition to the amendment.

Mr. BASS. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. Mr. President, I yield 2 minutes to the distinguished Senator from Tennessee [Mr. Bass].

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 2 minutes.

Mr. BASS. Mr. President, no member of this body has ever supported minimum wage legislation more strongly than I have.

In my experience, both in the House of Representatives and as a Senator, I have always felt that every American should receive a fair day's pay for a fair day's work.

I have supported increases in minimum wages, first from 75 cents to a dollar, then from \$1 to \$1.25, and now from \$1.25 to \$1.60 an hour.

However, I do not believe, in all good conscience, and with all the information that I possess, both from a study of the situation and from personal experience in my State, that the farm people of this Nation are ready for a minimum wage law. It might come to them in the foreseeable future, when farm conditions would be changed so that they could meet the requirements of being included in a minimum wage law. However, at this time, I know that the farm people in my area are not in a position to afford the minimum wage requirements.

Therefore, I have cosponsored with my distinguished friend, the Senator from Florida [Mr. HOLLAND], the amendment, an amendment to exclude farm labor from the provisions of this act.

I certainly hope that the Senate, in its wisdom, will not, at this time, impose even the small amount of farm labor under the provisions of this act.

Mr. President, according to the statistics I possess, they show that only 249 farmers in Tennessee would be included. However, I believe that if even this small number were to be included, it would have an adverse effect on the rest of farm labor in my State and would eventually set a precedent and criteria in this area.

I am of the opinion that it would work great hardship on the small farmer who now has to depend on a certain amount of labor in order to obtain production on his farm.

I certainly hope that the Holland amendment will be approved to exclude farmers from the provisions of this bill.

However, I want it clearly understood that I am supporting the major part of this legislation which would bring about an increase in the minimum wage for industrial and interstate workers.

Mr. YARBOROUGH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Texas will state it.

Mr. YARBOROUGH. How much time do I have left in opposition to the amendment?

The PRESIDING OFFICER. Fifty-nine minutes remain to the Senator from Texas.

Mr. YARBOROUGH. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized for 4 minutes.

Mr. YARBOROUGH. Mr. President, we have discussed the number of farms in America; namely, 3,490,000. Since the hearing, we have been asking the Department of Labor for the number of workers on the farms and the number of farms with 500 man-days which hire enough workers to have 500 man-days and thus come under the provisions of the pending bill.

Out of the 4,490,000 farmers in America, only 33,000 farms would be covered by the bill. But, of the 1,445,000 hired workers, 430,000 would come under the provisions of the bill.

That brings it to one and a fraction percent of the farms which would come under the provisions of the bill—between a third and one-fourth of the workers; in other words, such big operations that they are in effect factory operations.

The table I hold in my hand just came from the Department of Labor today. They have been continually working on it because the committee asked them to have this information updated.

Mr. President, I ask unanimous consent to have this table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Estimated number of farms and hired farm workers by farms meeting specified hired farm labor use tests, 1965

Man-days of hired labor used in peak quarter:

	Farms	Hired workers
Total -----	3, 490, 000	1, 445, 000
Number man-days of hired workers-----	2, 946, 000	-----
With man-days of hired workers-----	544, 000	1, 015, 000
With 500 man-days of hired workers-----	33, 000	430, 000

Mr. YARBOROUGH. Mr. President, I repeat, that of the total number of farms, a majority hire no additional help. They are true family farms.

In the interests of saving time, I shall not read all the communications from the different organizations in America who seek to better the condition of our farmworkers, but I do wish to point out some data in the report of the committee, on the bottom of page 19:

A 1965 survey of 1.4 million hired farmworkers indicated that 70 percent earned less than \$1.25 an hour; 50 percent earned less than \$1 an hour; and 34 percent earned less than 75 cents an hour. Average hourly earnings in agriculture were \$1.01 an hour on July 1, 1966, in the United States. In some States the average falls below 60 cents an hour and there are reports of wages of 30 cents an hour.

Mr. President, I suggest the absence of a quorum and ask the time be charged to time on the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. YARBOROUGH. Mr. President,

I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YARBOROUGH. Mr. President, I yield the distinguished senior Senator from New York 5 minutes in opposition to the amendment of the distinguished senior Senator from Florida [Mr. HOLLAND].

The PRESIDING OFFICER. The Senator from New York.

AGRICULTURAL MINIMUM WAGE

Mr. JAVITS. Mr. President, I am a city boy, as everybody knows. Having been here a considerable time, by now they know it. I am inspired to speak at this time because only a few days ago a farm boy by the name of Ed MUSKIE made one of the most eloquent speeches describing the problems of the cities that I have ever heard. So if a farm boy can speak about cities, perhaps I can say something about the problems of farms.

I would like to say a word about the minimum wage law as I see it looking at it from our point of view, in the hope that we would bring into consideration some other factors than those that may have been already mentioned.

To me the most important aspect of this move, which is an enormous reform, lies in the fact that we want to keep them down on the farm, and not have them forced to go up to the cities. We believe that this bill will make the farm more attractive, that it will make the farmers better able to compete, rather than less able, because right now the whole wage standard, as we see it in the figures, taken across the board in the country, represents a low standard as compared with what is paid in the cities. The farm area has been indicated as an empty place and withdrawn from recreational areas, as compared with places where there are things to do and which are great places in which to live. Why not make these rural places areas of opportunity?

The most important aspect of this report is the survey which is found on page 19 of the report, which, incidentally, is a magnificent document, and I should like to compliment the staff for it.

Mr. YARBOROUGH. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. YARBOROUGH. I should like to join the distinguished senior Senator from New York in complimenting and commending the staff on this most significant report. I think it has some of the most complete information I have ever seen with respect to a bill in my experience in the Senate. It is invaluable to an understanding of the bill. I wish to commend Mr. John Bruff, and others who have worked in getting the report ready. We are grateful to them and to the whole staff of the committee, not only the staff of the Labor Subcommittee, but the other members of the staff. We had a leader of the minority staff helping.

Mr. President, I yield myself this time in addition to the 5 minutes I had yielded to the Senator from New York.

The PRESIDING OFFICER. How much additional time does the Senator yield to the Senator from New York?

Mr. YARBOROUGH. I yield the distinguished Senator from New York 5 additional minutes.

Mr. JAVITS. As we look at the report, we see that of the 1.5 million farmworkers 34 percent earned less than 75 cents an hour in 1965. Fifty percent earned less than \$1 an hour. The average hourly earnings of agricultural workers as of July 1, 1966, was \$1.01 in the United States.

Is it not clear that, if there is anything that would drive people with any kind of enterprise from the farm, it would be the paucity of earnings on the farm?

As has been made very clear here, every effort has been made, and indeed overmade, to exempt the family farms where coverage is not necessary to their social viability and which can last without regard to the minimum wage.

As to the reward to which agriculture is entitled, I point out that here again the report is most illuminating, for it shows that the rate of productivity, the output per man hour in agriculture, has increased a little more than twice as much as it has in nonagricultural industry. Productivity in agriculture was 2.7 times as great in 1964 as in 1947, whereas in nonagricultural industry it was 1.6 times as great. So on the basis of productivity, there is more than ample justification for the basic wage of the farmworker to go up.

Mr. President, we are deeply concerned about the tremendous migrations to the cities. My city of New York, which is the largest in the country, has changed demographically in an extraordinary, almost a revolutionary way in the last 20 years, with a great outflow of population of middle income and high earnings, and a great inflow of population of low income and low earnings.

Mr. President, I am the son of an immigrant family, too, and this does not scare me at all. When my parents came to this country, they could not read and write. They earned practically nothing, and they almost starved to death, but somehow they made it. The big city gave them their opportunity.

Mr. President, I believe that the great masses of people who come into the cities will be absorbed. We will find ways, through all the things we are doing and all the things we will do, to do it. This country is not going to fail.

But, Mr. President, it is also important that our population be balanced out. In an era of tremendous transportation advances, where a family can go from almost any farm in the country for an evening in the city, to see the movies, and then go home at night, there is no need for these population pressures. But they remain, because of the lack of economic opportunity. Therefore, Mr. President, it seems to me there is an excellent reason, sociologically and socially, in terms of the national interest, for at least buttressing the basic economy of the farmworker so as to give him some inducement, if he likes the life—and it is a magnificent life, as things are organized and available today—to make a life on the farm.

There is much complaint—and I understand with great justice—about the

paucity of farm labor. In a free economic enterprise society, Mr. President, how do you attract farm labor, by paying them less or by paying them more?

When you pierce through the perfectly understandable folklore of the farm, the fact that it is the good life, with good, stout, rugged people, who are rugged individualists in free enterprise, and you break through to the fact that people on farms are really being shockingly underpaid, and an effort is made here to do some buttressing in that regard, I think you come to a real understanding of why this is essential, and as much in the great interests of the farm area as of the city area. Mr. President, I think these are very important questions. I think we have to raise our sights somewhat.

There is one final point that I wish to make. The idea that the resources of the United States—in terms of character, background, vitality, integrity, and the other fine qualities of individualism—are found only on the farms still persists. And therefore the idea persists that we must preserve the family type farm—that no matter how uneconomical it may be, no matter how depressing to the people who are in it themselves, in economic, educational, and social terms, it must be preserved, because this is the great stronghold of high character for America. With all respect to those who make such assertions—and I yield to no one in my love and respect for the farm family that wants to stay there and make the farm its life—that is not going to make this country. Not when the farmers are only 20 percent of the population, and getting down toward 16 percent, according to the latest figures, on the farm, and about 80 percent, within a very few years, are in the city. There must be some recognition of the fact that economics on the farm has a very great analogy to economics in the city, and that farm workers also, as well as the workers in the city, are entitled to some very basic concrete floor under them, in economic terms, which they ought to have fully and equally with the workers in the city, in order really to make the farm stand up and compete. That is essentially the reason that we have lifted the minimum wage level for workers in the city and in nonfarm occupations.

So, Mr. President, looking at this, as I repeat, as a city boy—and I heard, as I said, the magnificent speech of Senator MUSKIE, the country boy talking about the city—it seems to me that what is begun in this piece of legislation is something which is critically essential to putting the farm economy upon a ratable basis with the city economy, to attract people to stay with it instead of leaving it, to enable people effectively to compete, and thereby to buttress their strength and the possibilities, in sound terms rather than unsound terms. I urge exactly the reverse of many of the things which I have heard argued against this provision. I think those very arguments speak very strongly for this provision, in terms of what can be achieved through this beginning—and it is only a beginning—which is represented in this provision for agricultural labor. I believe in it, Mr. President. I

supported it strongly in the committee. I do not pretend to be an expert on farm life at all, and I state very frankly that my qualifications are in totally different fields.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. JAVITS. Will the Senator yield me 2 additional minutes?

Mr. YARBOROUGH. I yield 2 additional minutes to the Senator from New York.

Mr. JAVITS. But I state my conclusions as a person looking at this, perhaps, from another vantage point, submitting it to my fellow Senators, so many of whom have had very different experience from mine, as another point of view looking at the very same problem and coming to a very different conclusion as to the impact and the implications of what is here sought to be begun.

Mr. YARBOROUGH. Mr. President, I yield to the distinguished Senator from Washington for submission of conference reports.

ESTABLISHMENT OF SAN JUAN ISLAND NATIONAL HISTORICAL PARK, WASH.

Mr. JACKSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 489.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 489) to authorize the establishment of the San Juan Island National Historical Park in the State of Washington, and for other purposes, which was to strike out all after the enacting clause and insert:

That the Secretary of the Interior is authorized to acquire on behalf of the United States by donation, purchase with donated or appropriated funds, or by exchange, lands, interests in lands, and such other property on San Juan Island, Puget Sound, State of Washington, as the Secretary may deem necessary for the purpose of interpreting and preserving the sites of the American and English camps on the islands, and of commemorating the historic events that occurred from 1853 to 1871 on the island in connection with the final settlement of the Oregon Territory boundary dispute, including the so-called Pig War of 1859. Lands or interests therein owned by the State of Washington or a political subdivision thereof may be acquired only by donation.

SEC. 2. The property acquired under the provisions of the first section of this Act shall be known as the San Juan Island National Historical Park and shall commemorate the final settlement by arbitration of the Oregon boundary dispute and the peaceful relationship which has existed between the United States and Canada for generations. The Secretary of the Interior shall administer, protect, and develop such park in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended, and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

SEC. 3. The Secretary of the Interior may enter into cooperative agreements with the State of Washington, political subdivisions thereof, corporations, associations, or individuals, for the preservation of nationally significant historic sites and structures and for the interpretation of significant events which occurred on San Juan Island, in Puget Sound, and on the nearby mainland, and he

may erect and maintain tablets or markers at appropriate sites in accordance with the provisions of the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

SEC. 4. There are hereby authorized to be appropriated such sums, but not more than \$3,542,000 for the acquisition of lands and interests therein and for the development of the San Juan National Historical Park.

Mr. JACKSON. Mr. President, I strongly urge that the Senate act favorably upon S. 489. This measure, as amended by the House of Representatives, authorizes the establishment of the San Juan Island National Historical Park on San Juan Island in the State of Washington.

This proposed park will be an invaluable addition to our Nation's growing park system. It will provide the people of this country with a unique recreational experience combining the incomparable beauty of scenic San Juan Island with the great historical significance of the British-American confrontation known as the "Pig War."

In a time marked by strife and international tension, it is appropriate to recall the events leading up to the "Pig War" and how this dispute was peacefully resolved.

The Oregon Treaty of June 15, 1846, settled part of the international boundary between the United States and Canada. Unfortunately, this treaty left uncertain the status of several islands, the most important of which was San Juan, lying between the continental United States and Vancouver Island.

During the years 1853 to 1859, there were various disputes between the American and British citizens who had settled on the island. In 1859, a hog owned by an Englishman strayed into a potato patch belonging to an American. The owner of the potato patch, incensed at this aggressive act, shot the offending animal.

This casualty caused relations between the Americans and English on the island to deteriorate rapidly and soon armed forces from both nations were brought to the scene. Fortunately, calm leadership on both sides prevented the outbreak of armed conflict.

In 1871, the Treaty of Washington referred the issue to the German Emperor for arbitration and he ultimately ruled in favor of the United States. In accordance with the decision, the British troops immediately withdrew from the island, and for the first time in the history of the United States, our Nation had no boundary dispute with Great Britain. In assessing the Treaty of Washington, historian Thomas A. Bailey, stated that * * * "it was the greatest triumph for arbitral methods that the world has yet witnessed."

I would like to footnote this historical discussion by pointing out that the Advisory Board on National Parks, Historic Sites, Buildings and Monuments, recommended that a national historical park be established to commemorate and illustrate this phase of American history.

Mr. President, the House amended the bill, as passed by the Senate. The principal House amendments provide: First,

any land within the park which is owned by the State of Washington may be acquired only by donation; and, second, the amount authorized to be appropriated for land acquisition and development shall be increased from \$1,650,000 to \$3,542,000 in order to reconcile the authorized appropriation with up-to-date cost estimates which were not available at the time the bill was introduced.

Mr. President, I move that the Senate concur in the amendments of the House and that the bill, as amended, do pass.

The motion was agreed to.

MANSON UNIT, CHELAN DIVISION, CHIEF JOSEPH DAM PROJECT, WASHINGTON

Mr. JACKSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 490.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 490) to authorize the Secretary of the Interior to construct, operate, and maintain the Manson unit, Chelan division, Chief Joseph Dam project, Washington, and for other purposes, which was, to strike out all after the enacting clause and insert:

That, for the purposes of supplying irrigation water for approximately five thousand eight hundred acres of land, undertaking the rehabilitation and betterment of works serving a major portion of these lands, conservation and development of fish and wildlife resources, and enhancement of recreation opportunities, the Secretary of the Interior is authorized to construct, operate, and maintain the Manson unit, Chelan division, Chief Joseph Dam project, Washington, in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principal works of the unit shall consist of dams and related works for enlargement of Antilon Lake storage, related canals, conduits, and distribution systems, and works incidental to the rehabilitation of the existing irrigation system.

SEC. 2. Irrigation repayment contracts shall provide for repayment of the obligation assumed thereunder with respect to any contract unit over a period of not more than fifty years exclusive of any development period authorized by law. Construction costs allocated to irrigation beyond the ability of the irrigators to repay during the repayment period shall be returned to the reclamation fund within said repayment period from revenues derived by the Secretary from the disposition of power marketed through the Bonneville Power Administration. The term "construction costs", as used herein, shall include any irrigation operation, maintenance, and replacement costs during the development period which the Secretary finds it proper to fund because they are beyond the ability of the irrigators to pay during that period. Power and energy required for irrigation water pumping for the Manson unit shall be made available by the Secretary from the Federal Columbia River power system at charges determined by the Secretary.

SEC. 3. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Manson unit shall be in accordance with provisions of the Federal Water Project Recreation Act (79 Stat. 213).

SEC. 4. For a period of ten years from the date of enactment of this Act, no water shall be delivered to any water user on the Manson unit, Chelan division, for the production on

newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b) (10) of the Agricultural Adjustment Act of 1938, as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

SEC. 5. There are hereby authorized to be appropriated for construction of the new works involved in the Manson unit, \$13,344,000 (April 1965 prices), plus or minus such amounts, if any, as may be required by reason of changes in the cost of construction work of the types involved therein as shown by engineering cost indexes and, in addition thereto, such sums as may be required to operate and maintain said unit.

Mr. JACKSON. Senate bill 490, authorizing construction of the Manson Unit Chelan Division of the Chief Joseph Dam project, was introduced by Senator Magnuson and me and passed the Senate last year. The House amended the bill in certain respects and returned it to the Senate. Following my remarks I intend to ask that the Senate concur in the House amendments.

The Manson Unit consists of about 5,800 acres of apple-producing land located along the north shore of beautiful Lake Chelan in the central part of the State of Washington. This area produces very high quality Delicious apples chiefly because of favorable climate and topography. These apples consistently command premium prices in the market as a result of the high demand for them, and the irrigation works authorized will not serve the production of any crops in surplus supply.

The Manson Unit will rehabilitate and enlarge an existing water collection and distribution system which is old and in bad condition and subject to frequent failures. This work is quite important since a major failure of these facilities during the growing season could result not only in the loss of a crop of apples but also of orchards which have been under development for a long time. This will be an exceptionally sound Federal reclamation investment as it has the extremely high benefit-cost ratio of 6.0 to 1.

The major change made by the House in S. 490 is in section 2 under which financial assistance will be provided to the irrigators from power revenues of the Federal Columbia River power system, rather than only from the Chief Joseph Dam. This is in accordance with the present practice whereby Federal power costs and revenues in the Columbia Basin are pooled, and is consistent with and will be subject to the guidelines adopted as part of the amendments to the act authorizing the Third Powerplant at Grand Coulee Dam. This is the so-called "basin account" approach.

The appropriation authorization has been increased from the 1959 estimated cost of \$12,400,000 to \$13,344,000, to more nearly reflect current prices.

Mr. President, I move that the Senate concur in the amendments of the House and that the bill as amended be passed.

The motion was agreed to.

feasibility investigations is before the Congress.

The projects which both bodies added, of course, were retained in the conference report.

To summarize the conference committee action on section 3, the conference report includes three project investigations not in the House amendment, and does not include seven project investigations that were in the House amendment.

Project information to be furnished the committees

The House amendment includes a new section 4 (not in the Senate-passed bill) which requires that the feasibility studies for those project proposals which have been determined to be feasible must be submitted to the Committees on Interior and Insular Affairs in the Senate and the House of Representatives within 1 year after completion of the final feasibility plan. Along with the feasibility study and report on any project proposal, the Secretary must also submit the results of all studies he has made for accomplishing the project objectives in total or in part. The date of completion of the final feasibility plan for a project is considered to be the date when the Secretary approves the feasibility report. The studies and information on the project proposal and on the alternatives are expected to supply sufficient information for the committees in the Congress to make intelligent and informed decisions with respect to the project plan to be authorized. In respect to both the project proposal and the alternatives, the Secretary must furnish to the committees all the detailed information developed during the studies.

The conference committee agreed to retain this section in the legislation but adopted minor language changes to make it clear that the language of this section is not intended to require the Secretary or the Bureau of Reclamation to study project alternatives in more detail than is required under present policies and procedures. In other words, the language of this section is not intended to be the basis for increasing the cost of project investigations. On the other hand, the language is intended to require the Secretary of the Interior to furnish the committees all of the information which is developed in connection with project investigations, including information on all of the alternatives studied, in order that the committees and the Congress may judge whether, considering all relevant factors, the best plan of development has been recommended.

Feasibility studies with donated funds

Section 5 of the House amendment was a provision authorizing the Secretary to conduct feasibility studies on any project proposals when and to the extent that the costs of such studies are advanced by non-Federal sources. The purpose of this provision was to encourage financial participation by States and local interests in these investigations. The language in the Senate-passed bill (sec. 4) permitted feasibility studies to be accelerated with funds advanced by non-Federal sources, but provided that such studies could not be initiated without specific congressional authorization. The conference committee, agreeing that all feasibility investigations should be specifically authorized even though conducted with donated funds, adopted the Senate language.

Amendment to the Grand Coulee Dam Act

The Senate-passed bill included a new section (not in the House amendment) which amended the authorizing act of the third powerplant at Grand Coulee Dam (sec. 6 of the conference report). That act establishes a form of basin account for the Pacific Northwest and provides for financial assistance from the Federal Columbia River power system to reclamation projects in the Pacific Northwest that are hereafter authorized.

The purpose of the proposed amendment to the Grand Coulee Dam Act is to specify the conditions under which such financial assistance may be given and to place a limitation upon the amount of such assistance. The language of a new subsection 2(b) provides that reclamation projects hereafter authorized in the Pacific Northwest must be scheduled in such a manner that the required financial assistance for those projects, together with financial assistance for previously authorized projects, will not cause increases in the power rates of the Bonneville Power Administration. With respect to the limitation on the total amount of assistance to irrigation for both existing and new projects, such amount cannot exceed an average of \$30 million annually in any period of 20 consecutive years. The financial assistance must come from "net revenues" as defined in the language of this new subsection.

The language of a new subsection 2(c) provides for a periodic review by the Secretary of the Interior of the adequacy of the amount authorized for irrigation assistance and recommendation by the Secretary to the Congress for any changes that may be needed in the limitation on irrigation assistance.

The conference committee has made certain editorial changes in the language of the new subsection 2(b) of the amendment to the Grand Coulee Dam Act as included in the Senate-passed bill, and it also has revised the second sentence of that new subsection to read:

"It is further declared to be the policy of the Congress that the total assistance to all irrigation projects, both existing and future, in the Pacific Northwest shall not average more than \$30,000,000 annually in any period of twenty consecutive years."

The remainder of the second sentence has been stricken as unnecessary since it states the expected results of procedures presently followed. It is not the conference committee's intention to change the Federal Columbia River power system repayment policies and procedures adopted by the Secretary of the Interior in April 1963 and set forth in the hearings on H.R. 7406 before the Subcommittee on Irrigation and Reclamation of the House Committee on Interior and Insular Affairs, September 9 and 10, 1965.

Nothing in this new subsection 2(b) is intended to expand or to limit present Bonneville Power Administration authority to purchase or exchange power.

The conference committee approved, without change, the language of the new subsection 2(c) of the proposed amendment to the Grand Coulee Dam Act.

The amendment to the Grand Coulee Dam Act set out in section 6 of the conference report is not concurred in by Mr. Saylor and his signature on the conference report and on this statement of the House conferees indicates his approval only of the remainder of the legislation.

WAYNE N. ASPINALL,
WALTER ROGERS,
LEO W. O'BRIEN,
JOHN P. SAYLOR,
CRAIG HOSMER,

Managers on the Part of the House.

FAIR LABOR STANDARDS AMENDMENTS OF 1966

The Senate resumed the consideration of the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

Mr. HOLLAND. Mr. President, I ask unanimous consent that the names of the Senator from Mississippi [Mr. STENNIS] and the Senator from North Carolina

[Mr. ERVIN] be added as cosponsors of the amendment now pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLAND. I yield 3 minutes to the distinguished Senator from Mississippi [Mr. EASTLAND].

Mr. EASTLAND. Mr. President, the Senator from New York complains about people moving from the farms to the cities. This bill will not be a cure for that. This bill would cause wide unemployment; it would cause thousands of people to move from the farms to the urban areas of this country.

No industry can pay more for labor than the price of its product justifies; and this bill will cause wide unemployment. Let me give an illustration of one small industry, to show what, in my opinion, we will see in the next few years happen time and time again.

During World War II, we were shut off from China. China, when our fleet was sunk at Pearl Harbor, was the source of our entire tung oil supply.

During the world war, tung oil carried one of the highest naval priorities. The U.S. Government spent millions of dollars in Florida, south Georgia, south Alabama, south Mississippi, south Louisiana, and south Texas promoting the tung oil industry. It was necessary for the defense of our country.

The entire industry is promoted by the Government. The industry depends upon hand labor. There is no machine that will harvest the nut. Old men and women and retired people go out with a blanket or a sack and harvest them by hand. The trees must be sprayed by hand.

What would the pending bill do? The bill will absolutely and utterly destroy that industry. No man can pay more in wages than the price of his product justifies.

Our Government, in encouraging this industry, has put a 24-cent a pound support price on tung oil. The product is necessary and essential for the defense of our country.

That industry will now be absolutely and utterly destroyed under the provisions of the pending bill.

The point I make is that this, in my judgment, will happen in hundreds of cases in the United States. We cannot give some little dictator in the Labor Department, under the influence of the CIO or some other organization, the power to destroy basic industry in this country. I think that is the issue in this case.

We are interfering with economic law. Here is an industry that is going to be destroyed. I could name others. We will see it happen hundreds of times in this country.

Mark my prediction, we will fill the cities with unemployed.

Mr. HOLLAND. Mr. President, I thank the distinguished Senator.

I yield to the manager of the bill.

Mr. YARBOROUGH. Mr. President, I yield 5 minutes to the distinguished senior Senator from Tennessee.

Mr. GORE. Mr. President, I have talked a good deal about this proposition. Heretofore, I have opposed the inclusion of agricultural labor in the

minimum wage program. I would now oppose a general coverage of farmers, but I have decided to support the provisions of the bill provided we can strike out this exemption for range farming—which I think we can do.

Let me be explicit. This is a beginning, but I think it is a beginning that the more affluent of our agricultural economy can take. Let me explain why.

For example, as has been pointed out here, it applies to, I believe, only 249 farms in Tennessee, a State of 4 million people.

The senior Senator from Tennessee happens to be one of those farmers to whom it would apply.

The provisions in the bill are very minimal, very generous to the larger farms: first, there is no overtime requirement; second, the wage begins at \$1 an hour—not \$1.40; and third, as a part of farm wages, a reasonable valuation of the house that most farmers furnish to their farm help can be counted, as can the garden privileges and the keeping of a milk cow which many farm families wish to do. These many privileges and economic opportunities which farmowners afford to their tenants or to their farm employees are quite valuable.

Many people ignore that fact in making snide remarks about the low-income farmworkers. When a farmworker has a house, a garden, a cow, sometimes electricity and a telephone, he is a long way toward having a living. He has the privilege, many times, of having a small flock of poultry and a few swine for meat. These economic values are to be considered as part of wages paid.

When a farmowner is given the privilege of placing a reasonable value, as a part of wages, upon these, and I say again it is of considerable value, then I believe the farmer with a sufficiently large operation to have 500 man-days of employment within a quarter can and should comply with these minimum standards. It seems to me that now, when there is reasonable prosperity in the farm economy, we can make this small beginning.

It has been said that the bill will influence the wage of labor on other farms. I think it may have a wholesome influence. That is one reason why I should like to see a start made. A tenant farmer or a farm laborer is just about the lowest paid laborer in our society. I am willing to make this start toward a betterment of his lot.

The PRESIDING OFFICER. The time of the Senator from Tennessee has expired.

Mr. YARBOROUGH. I yield an additional 5 minutes to the Senator from Tennessee.

Mr. GORE. Mr. President, if Senators from other parts of the country are willing to make this start, which I believe is minimal, but at the same time is reasonable, to include farm labor in the minimum wage law, the coverage ought to be nationwide.

Mr. President, I have given briefly the reasons why I expect to oppose the amendment.

Mr. HOLLAND. Mr. President, I yield to the Senator from Louisiana from the

time on the amendment as much time as he may need; or, if he wishes, he may take time on the bill.

Mr. YARBOROUGH. Mr. President, will the Senator from Florida yield to me for a minute on my time?

Mr. HOLLAND. I am glad to yield.

Mr. YARBOROUGH. I desire to thank the distinguished senior Senator from Tennessee, who is an experienced farmer. He is 1 of only 249 in the whole State of Tennessee who have operations large enough to warrant the employment of more than 7 full-time employees. He is one of the few who would be covered under the bill, but he has spoken in support of the bill. I take my hat off to him. He has given us the type of leadership that this body is proud of and appreciates. Although he is one of the few farmers in Tennessee who would be affected, he says he is willing to pay what would be required, because the bill is needed for the Nation. It is a small beginning, which is something that is often overlooked.

In that connection, it has been said here that Franklin D. Roosevelt recommended the minimum wage law only for manufacturing plants. Actually, he said "in the factory and on the farm" when he sent that message to Congress in 1937. Here we are 29 years later, and they never even made it apply to the big factory farms that this bill would reach.

Mr. HOLLAND. Mr. President, I yield such time as he may need to the distinguished Senator from Louisiana [Mr. ELLENDER]. I would appreciate the time being yielded from the bill. We had that assurance from the majority leader.

Mr. YARBOROUGH. That is correct. The time is to be yielded from the time of those opposed to the bill.

Mr. HOLLAND. The Senator is correct. That would be from the 4 hours of time controlled by those opposed to the bill.

Mr. YARBOROUGH. The Senator is correct.

Mr. HOLLAND. That, I understood, was our privilege. The majority leader made it clear that we should have as much time as was needed to support this amendment, even if we had to take time from the bill.

Mr. JAVITS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. HOLLAND. I yield.

Mr. JAVITS. Is it a fact that 4 hours is yielded each to the majority leader and the minority leader, or subject to their delegation, rather than for and against the bill?

The PRESIDING OFFICER (Mr. MONTROYA in the chair). The Senator is correct. Four hours to each of the leaders or their designees.

Mr. JAVITS. Mr. President, the time yielded, then, is out of the time of the majority. But I assure the Senator from Texas that if he is in any difficulty, we will help him on the time question.

Mr. HOLLAND. There is no doubt, Mr. President, about what the majority leader said.

Mr. YARBOROUGH. There is no question, Mr. President, at this time that

we yield. We were just discussing whose time would be affected. There is leadership on both sides of the aisle for the bill. This is clearly covered by what the majority leader said. It is anticipated that there will be fair time and equal time for both sides. We are yielding the necessary time on the bill.

Mr. ELLENDER. Mr. President, when I was a member of the Senate Labor Committee in 1937, I was a cosponsor of the Fair Labor Standards Act, passed during the 75th Congress. As one of the Senate conferees who finally ironed out the provisions of that act, I had high hopes that it would achieve the purpose for which Congress passed it. The main purpose of the wage and hour law passed in 1938 was the abolition of sweatshops, particularly those attendant to an industrial society, and which, to a considerable extent, exploited woman and child labor. As a member of the Senate Labor Committee, I heard witnesses from various parts of the country testifying to the dreadful conditions to which some of the industries had subjected their workers.

The purpose of the Fair Labor Standards Act of 1938 was most certainly not to launch the Congress and the Federal Government into the business of fixing wages. If prosperity could be legislated, every legislature in the world immediately abolish poverty. If, by establishing a certain minimum wage, poverty could be abolished, I would introduce such a bill and vote for it this very day. Obviously, a minimum wage must have some reasonable relationship to the value of the services rendered. We certainly knew in 1938 that we could not legislate prosperity, but we felt that we could, by the passage of the Fair Labor Standards Act, abolish these intolerable working conditions imposed upon men, women, and children by a sick industry. Congress decided in that act to specify the groups of workers and employments and economic activities which would be subject to the wage and hour provisions. Congress applied these provisions to employees engaged in interstate commerce and in the production of goods for interstate commerce. Congress did not extend the coverage of the act to the fullest extent it could have. In other words, coverage under the 1938 act was not coextensive with the Federal power to regulate commerce. As I said before, we indicated the type of industries to be covered, if they produced goods, wares, and merchandise for interstate commerce.

Responsible leaders in government, industry, and labor did not want a minimum wage law to take the place of collective bargaining. Union leaders felt that a statutory minimum wage could well result in the maximum wage in that industry.

The early State laws which preceded the Fair Labor Standards Act of 1938 by 20 to 30 years sought to abolish sweatshops, child labor, and the abuses of women workers. If the original purposes of the 1938 act were as I have stated, why have we come to the present state of affairs in minimum wage legislation? There are several reasons for

this situation, two of which I will go into in some detail. The first is that Congress has been subjected to considerable pressure by various interest groups to have certain workers either included or excluded. The minimum wage laws of today merely reflect the politics of our times, and as Prof. D. Leiter, of the City College of New York, commented in the Labor Law Journal in January of 1962, there is no cohesive principle running through these laws.

The second reason for this distortion of the purposes of the minimum wage has been the Federal court decisions interpreting the act. The U.S. Supreme Court, in a lengthy list of grotesque decisions, has so distorted the coverage of workers under the act that Congress was forced to reverse the method of determining coverage. In other words, those persons who are covered by the minimum wage law are no longer listed. Those persons and industries which are excluded from coverage now must be listed in amendments to the Minimum Wage Act. Persons who, under no stretch of the imagination could be considered employees engaged in interstate commerce, or in the production of goods for interstate commerce, were declared by the Supreme Court to be covered.

Mr. President, in my speech and debate in the Senate on August 12, 1960, when amendments were then being considered to the Fair Labor Standards Act, I listed numerous Federal court decisions which had stretched, twisted, and distorted the coverage of the Minimum Wage Act. I will briefly list a few of these decisions which indicate the absurd length to which the Federal courts have gone.

In one case a small sawmill that sawed timber for use in building a bridge on an interstate highway was placed under the purview of the Minimum Wage Act. This mill produced lumber in the State, for use in the State; but because some of the lumber was used on this bridge on which automobiles went from one State to another, it was covered under the minimum wage bill. Mr. President, that was never intended by the sponsors of this bill.

In another case, gravel and sand were used to construct highways. No matter that that sand was produced and used within the State. The fact that the sand and gravel were used on an interstate highway made the gravel pit owners and the workers there come within the purview of this act.

Mr. President, the point I am attempting to make is that this law has been so expanded by interpretations of the commerce clause that it covers practically every worker within the United States, with mighty few exceptions.

I repeat, the only ones who are not covered in the law are those actually exempted in the law, and among those are farmers. I hope that this Senate will not vote to place the farmers under the minimum wage law.

(At this point, Mr. MONDALE assumed the chair.)

Mr. ELLENDER. Mr. President, I wish to cite a few cases.

In *Kirschbaum Company v. Walling*, 316 U.S. 517, the Supreme Court held that the Fair Labor Standards Act of 1938 covered employees engaged in the maintenance and operation of a building whose tenants were engaged in the production of goods for interstate commerce.

The workers who were employed there cleaned the windows, and swept the floors, but because that building had tenants who did business from one State to another the Court said that those employees came within the purview of the act.

In *Walling v. Jacksonville Paper Company*, 317 U.S. 564, the Fair Labor Standards Act was held to cover employees of a wholesale paper company who delivered from company warehouses within a State to customers within the same State, after a temporary pause at such warehouses, goods procured outside of the State upon prior orders from such customers.

Borden Company v. Borella, 325 U.S. 679. In this case, a manufacturing corporation owned and operated an office building in which 58 percent of the rentable space was used for its central offices, where its production of goods for interstate commerce was administered, managed, and controlled, although the goods were actually produced at plants located elsewhere. The Supreme Court held that the maintenance employees of the building were engaged in an occupation necessary to the production of goods for interstate commerce within the meaning of the Fair Labor Standards Act and were therefore covered.

In *Powell v. U.S. Cartridge Company*, 339 U.S., 497, the Supreme Court held that the minimum wage law applied to employees of a private contractor operating a Government-owned munitions plant under a cost-plus-fee contract with the Government. The Court held that the transportation of munitions was commerce within the meaning of the act, even though the munitions were to be used or consumed by the United States and were not for sale or exchange. The Court further held that the Fair Labor Standards Act and the Walsh-Healey Act are not mutually exclusive, but are mutually supplementary.

In *Mitchell v. Lublin, McGaughy and Associates*, 358 U.S., 207, the Supreme Court held that the Minimum Wage Act covered nonprofessional employees of a firm of architects and engineers simply because they worked on plans and specifications which were sent across State lines.

Mr. President, in the pending bill we have an enlargement of the so-called commerce clause so as to take in more and more employees in this country, so that in my humble judgment the only employees who will be exempt from the minimum wage law will be those we actually name in the bill.

Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum of Federal court decisions which extended coverage of the minimum wage law due to the court's interpretation of the commerce clause.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

FEDERAL COURT DECISIONS WHICH EXTENDED COVERAGE OF THE MINIMUM WAGE LAW DUE TO THE COURT'S INTERPRETATION OF THE COMMERCE CLAUSE

Employees who worked in reservoir area of dam being constructed across non-navigable stream as part of Federal flood control project, removing trees and brush and other floatable material for primary purpose of preventing damage to power machinery of dam, were engaged in interstate commerce and were therefore covered by this chapter. (*Tobin vs. Pennington-Winter Construction Co.*, C.A. Okla. 1952; 198 F. 2d 334).

Where defendant manufactured boxes suitable for containing products of other manufacturing companies located in State, and such companies packed their goods in such boxes for transportation in interstate commerce, defendant was "engaged in production of goods for interstate commerce within this chapter." (*Walling vs. Villalume Box & Lumber Company*, D.C. Minn. 1943, 58 F. Supp. 150).

Where cans of condensed cream and milk were rolled out of refrigerated box cars and loaded into employer's truck for transportation to plant, short haul from rail siding to plant was interstate commerce since there was a practical continuity of movement of goods until they reached plant. (*Foremost Dairies, Inc. vs. Ivey*, C. A. La. 1953, 204 F. 2d 188).

Where complaint alleged that defendant was engaged in business of leasing motor vehicles to numerous corporations and persons who were engaged in production and transportation of goods in interstate commerce, that a substantial number of lessees used vehicles in transportation of goods in interstate commerce and that defendant employed over 100 men for maintaining and repairing motor vehicles, complaint sufficiently alleged that defendant's employees were engaged in "production of goods for commerce" so as to be entitled to protection of this chapter. (*Snyder vs. John J. Castle, Inc.*, D.C.N.Y., 1943, 49 F. Supp. 926).

Where an average of 55.9 percent of rentable floor space during 5-year period involved was occupied by tenants engaged in production of goods for interstate commerce and 25 percent of total annual volume of tenants' business was in interstate commerce, building maintenance and operating employees were entitled to benefits of the chapter on ground that a "substantial part" of tenants' activities related to goods moving in interstate commerce. (*Frank vs. Mc-Meehan*, D.C.N.Y. 1944, 58 F. Supp. 369).

Building service employees, serving building tenants regularly and continuously engaged in production of goods for commerce, were engaged in the "process or occupation necessary to production" of such goods within this chapter, regardless of whether they physically handled or worked on the goods. (*Schineck vs. 386 Fourth Avenue Corporation*, 1944, 49 N.Y.S. 2d 872, 182 Misc. 1037).

Workers on new construction which constitutes an improvement of an instrumentality of interstate commerce are, during the period of such construction, under coverage of this chapter. (*Tobin vs. Pennington-Winter Construction Company*, C.A. Okl. 1952, 198 F. 2d 334).

Construction company employees engaged in work of reconstructing railroad bridges that were instrumentalities of interstate commerce, under contract with railroad company, were "engaged" in commerce within meaning of this Chapter. (*Tedersen vs. J. F. Fitzgerald Construction Company*, 1944, 56 N.E. 2d 77, 293 N.Y. 126, 65 S. Ct. 892).

Mr. ELLENDER. Mr. President, the U.S. Supreme Court recently outdid itself in the so-called Atlanta Motel and the McClung Restaurant cases, by upholding the public accommodations section of the Civil Rights Act of 1964 as being constitutional, although these were actually civil rights cases and reported in 85 Supreme Court, pages 348 and 377. The restaurant under consideration in the McClung case was a local family-owned barbeque place. The evidence did not indicate that it served interstate travelers, but it did buy a substantial part of its meat from a local supplier after the meat had been moved in interstate commerce. The Court held that the act prohibited discrimination in such a restaurant since it was within the power of Congress to regulate interstate commerce. Now a point which is not lost in these cases, even though they primarily dealt with civil rights, is that the employees are subject to the Fair Labor Standards Act as amended.

The Supreme Court by its absurd interpretations of the commerce clause has extended the minimum wage coverage to practically every industry in our country. Congress has had to resort to listing those which are exempt from coverage. The Congress, however, is not entirely without blame, because in 1961, it extended the applicability of the act to employees of an "enterprise engaged in commerce or in the production of goods." In other words, it is no longer a question of whether or not the employee was engaged in commerce, but whether he worked for an enterprise which was so engaged.

Two other significant wage and hour laws which have helped to muddy the issue and the purposes of such laws are the Davis-Bacon Act of 1935 and the Walsh-Healey Act of 1936. The Davis-Bacon Act provides that Government contracts in excess of \$2,000 for the "construction, alteration or repair of public buildings or public works," shall contain minimum wage rates to be paid to the various classes of laborers or mechanics employed on the site of the works. Davis-Bacon wages are based upon the prevailing wages to construction workers in the area where the work is to be performed. These wages are typically higher than those paid to industrial workers. The McClellan hearings on work stoppage at missile bases during the session of the 87th Congress indicate the extent to which the interpretation and application of this act have been confused.

The Walsh-Healey Act of 1936 actually goes beyond the Davis-Bacon Act in authorizing the Secretary of Labor to set wages based upon the prevailing wages in the area where the work is to be performed. This act, of course, deals with Government contracts generally, and not just the construction of public works, as does the earlier act.

Professor of Economics Jules Backman, of New York University, points out in the 14th Annual Conference on Labor in 1961 what he calls the "ratcheting effect" of raising the minimum wage under the Walsh-Healey Act. Professor Backman states the effect as follows:

Changes in minimum wages are not made in a vacuum. All wages paid by a plant are part of a closely interrelated structure. Over time, various pressures act to solidify relationships. Each worker develops attitudes toward the relationship between his wage and that paid to other workers. Once a worker has obtained a differential as compared with other workers it defines his status in the labor hierarchy. He develops a vested interest in maintaining or improving that relationship—either in absolute or in relative terms—and resists vigorously any action which will tend to narrow it. When the differential is narrowed, demands develop for its restoration. And the greater the narrowing, the more vigorous the demand for restoration of historic earlier relationships.

The obvious result of such wage fixing has been a Union-Walsh-Healey wage seesaw. As wages go up, so does the Walsh-Healey floor, which in turn, tends to bolster union demands for higher wages; and that in turn leads to higher wage floors as industries are re-surveyed. Wage methods, of course, have been used to determine Walsh-Healey minimums, such as contract minimum wages, the wage cluster standard, the majority of workers standard and the majority of establishments standards, and so forth. Whatever the method used, Walsh-Healey minimums affect the entire wage structure. It is, of course, human nature for workers and employers to desire the establishment of differentials based upon capability, responsibility, education, and so forth.

When Congress enacted the Fair Labor Standards Act of 1938, it did not just decree that every worker be paid a living wage. As Dr. Donald E. Cullen, professor of labor relations at Cornell University, pointed out in his booklet "Minimum Wage Laws", February 1961:

Congress explicitly tempered its resolve to eliminate substandard wages and hours "as rapidly as practicable" by adding the phrase "without substantially curtailing employment or earning power".

I believe that Professor Cullen puts the issue in sharp focus when he states:

It is undeniable that there still exists acute poverty in the midst of our "affluent society," nor does anyone dispute the necessity of maintaining purchasing power or preventing a repetition of the tragic wage collapse of the early 1930's. The issue . . . is whether minimum wage laws can accomplish these laudable purposes.

When the employer is put out of business and the employee loses his job, the minimum wage law has defeated every purpose ascribed to it.

What are the alternatives which a low wage employer is offered when a minimum wage is imposed on his employees? There are, among other things, price increase, reduction of hours, improved selection and training of workers; increased work standards, replacement of least efficient workers, reorganization of work procedures, increased mechanization, compression of wage differentials, intensified selling efforts, reduction of work force, acceptance of lower profits and going completely out of business. We have seen, even in the past 10 or 15 years, one or more of these effects put into operation in businesses of our own knowledge and acquaintance. Some examples are, of course, the self-service elevators replacing the elevator operators.

I might point out here that Congress seems to be able to afford both. Farm machinery has vastly reduced the number of farm laborers; household appliances have all but replaced domestic employees, and these are only a few of the countless numbers which one could imagine.

If there is any need for establishing a minimum wage at \$1 an hour or \$1.75 per hour, and if this can be done without regard to a whole host of economic factors, why should not the minimum wage be set at \$5 per hour? The relative economic and political power of the parties at issue must have some reasonable relationship to the accord or decision reached.

Mr. President, at this time when the Nation is on an escalator of inflation, it seems to me that the administration is doing everything possible, either by design or by accident, to accelerate this dangerous condition. We are presently conducting a full-scale war in Vietnam, we are spending billions of dollars on domestic programs, which have no long-term value to the economy and only contribute to the inflationary spiral. The Senate Labor Committee's minimum wage bill will only further contribute to the run-away inflation which we now have in this country. The committee admits that passage of this bill will cost \$2 billion. In a strange attempt to justify their action, which amounts to pouring gasoline on a fire which is now almost beyond control, they point out that our present gross national product is \$732 billion a year. It seems to me almost completely unnecessary to have to point out that in an economy so riddled with inflation as ours now is that the gross national product statistics are meaningless. Obviously, the gross national product is going to rise every time the costs of goods and services rise. I wonder if the members of the Senate Labor Committee who rendered the majority report made any attempt to determine the value of the dollar which they claim they are so anxious to put into the hands of the millions of new workers to be covered by the bill. The \$2 billion which they claim will be added to the economy in new and higher wages will obviously have to come from some other segment of the economy and the only conclusion to be drawn is that the dollar will be further devaluated.

At this point, Mr. President, I want to go into an analyses of the committee's bill which would amend the Fair Labor Standards Act, and also make some comments and observations upon the committee's report which was submitted in justification of the action taken. In the committee's report, the majority members make the observation that it is the Congress' findings and declaration of policy that there exist in industries engaged in commerce, or in the production of goods for commerce, conditions detrimental to the maintenance of a minimum standard of living for the health and welfare of the workers and that this causes commerce and the channels of commerce to be used to spread and perpetuate these poor conditions among the workers and that the present state of affairs burdens commerce in the free flow of goods and further, that it constitutes

an unfair method of competition in commerce. The committee further contends that the present labor situation leads to labor disputes and interferes with the orderly and fair marketing of goods in commerce. It seems to me to be obvious that the inclusion of millions of new workers and the increase in the minimum wage will have the opposite effects from those the committee claims. The added cost of goods and services is certainly not going to be helpful to the low wage earners of this country. As far as the alleged unfair method of competition is concerned, I believe that this is merely a smoke-screen to prevent or retard the movement of industry into the southern United States. It is not the labor leaders alone who wish to prevent the industrialization of the South, and this claim of unfair competition is merely a poor attempt to hide the fact that there are many obvious advantages for industries situating in the South. Our climate, natural resources and an available labor market are ample reasons for the movement of industries southward.

If, by and large, wages are lower in the South than in other sections of this country, I would point out that the cost of living is also lower in the South. One point which always seems to escape the bureaucrats who wish to centralize everything is that the United States is a vast country, and while we have a free flow of commerce, the size of the country, the local conditions and the local resources will always prevent a completely uniform economic condition all over the United States.

Mr. President, at a time when we are profoundly concerned with the conditions of our great cities and the constant migration of our people from the rural areas, the passage of the present bill can do nothing but accelerate this migration. By applying coverage of farm workers in the minimum wage law, no other effect can be expected than increased mechanization of farm tools and the driving of the farmworkers from their homes. I sponsored a bill earlier this year which had for its prime purpose the improved condition of rural America, and this was to be accomplished by attempting to bring urban comforts and necessities into the countryside so that the people would remain on the land and stop their flight to the big cities. By extending the coverage of the minimum wage law to agricultural workers, we cannot hope to maintain the small towns and rural communities of this country. This bill today will have the effect of driving the agricultural workers from the farm. If there was ever any hope of saving the family farm, I think that it is lost upon the passage of this bill. I say this in spite of the fact that the Labor Committee claims the opposite. The fact that the present bill would include only farms which employ seven or more workers does not alter the fact that a smaller farmer is going to have to meet the competition of the minimum wage paid on the larger farm.

Mr. President, I hesitate to enter into a discussion of collateral issues; however, I think it should be made abundantly

clear who is going to be hurt by the passage of this bill. It has been well established that the Negroes in our society are at the lowest rung of our economic ladder. The effects of this bill will drive them further down. This will only increase farm mechanization and drive many thousands of Negroes into the big city ghettos. Whatever chance existed before for the employment of teenage Negroes will be almost completely lost by the enactment of this minimum wage bill.

If the minimum wage is applied to more retail establishments, restaurants, hotels, laundries, and farms, we can rest assured that employers will seek every method possible in cutting costs in order to compete with other employers engaged in the same business. Of course, prices will rise because of this bill, but the long-term effect will be the more rapid automation of all industries affected.

In regard to the price of agricultural commodities, the Senate Labor Committee's report makes the interesting observation that:

If retail prices go up more * * * and if the increase is blamed on rising labor costs in the field, the American housewife should demand a complete and immediate Congressional inquiry.

Mr. President, I wonder which committee of Congress will have the dubious honor of conducting this inquiry. I am afraid that the Committee on Agriculture and Forestry of which I am chairman, is going to be saddled with that responsibility.

If the proposed amendments of the Senate Labor Committee are enacted, approximately 7.2 million workers will be covered for the first time by the minimum wage bill, and the present minimum wage will be extended to \$1.40 an hour, beginning February 1, 1967, and then extended again on February 1, 1968, to \$1.60 per hour. As I said before, the committee estimates that this increase will amount to approximately \$2 billion annually. Of the 1,895,000 farmworkers, the Labor Committee would extend minimum wage coverage to approximately 390,000. How this could be done without adversely affecting the other 1.4 million is beyond me. The committee makes the interesting observation that:

The imputed wage for the family farm operator and his family (those not to be included in the present bill) would no longer be so drastically undermined by the tragic wages of workers on the largest farms.

I believe that the opposite effect will occur. I think the family farm will be further undermined, because regardless of how small family farms are, there is a need for some outside help, and if they are to secure this added assistance, they are going to have to compete in the payment of wages with the larger farms.

Mr. President, turning to a slightly different aspect of the bill, I would like to comment upon the method used by the committee in extending the coverage of the minimum wage law. This has been done by two methods. The first is to remove exemptions which have previously

existed in the law, and, secondly, by changing the definitions previously used in the law, particularly that part regarding interstate commerce and production of goods for commerce. In my earlier remarks, I discussed these two terms as originally intended by Congress and as distorted by the Supreme Court and other Federal courts. Now we have Congress itself changing the definition to further broaden the scope of coverage. The definition of "enterprise," which Senators will recall was added in the 1961 amendments is now to mean "an enterprise which has employees engaged in commerce or in the production of goods for commerce, which shall include employees handling, selling or otherwise working on goods that have been moved in, or produced for commerce."

Mr. President, I believe that this is one of the most flagrant examples of the distortion of the commerce clause which has only been rivaled by Supreme Court interpretations. In other words, under the proposed new definition, anyone working, or handling, or selling goods that have been moved in or produced for commerce will be covered by the committee's bill. This definition, along with the Federal courts' decisions, makes it virtually impossible for the mind to imagine any article for sale which would not come within the definition.

Mr. President, I believe that the amendments proposed by the Senate Labor Committee are the most irresponsible legislation that has been seriously considered by the Congress in many years.

Mr. President, a few Senators have stated, particularly my good friend from Texas, that there are only a few, just a handful, of farms that will be affected by this bill. But if we are to judge from what has happened in the past, that will not happen. The original bill was supposed to cover just a few hundred thousand employees. Now, it covers millions of employees. That has been done by amendments adopted by the Congress, as well as through interpretations by the Supreme Court. By putting farmworkers under this bill and making it possible for only those farms with seven employees or more to be covered, it is only a question of time before the number is reduced. After a while everybody will be covered.

As I said before, I was a cosponsor of the minimum wage bill when it was enacted in 1938. I held hearings on the proposal for hours. At no time was it ever considered by the sponsors of the bill that farm labor would be included.

As I said, many attempts have been made to incorporate farm labor into a minimum wage bill. This is the fifth effort made to place farm labor under the minimum wage law. I hope the Senate again refuses to take that action.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLAND. Mr. President, I understood the majority leader wanted to take time out of the time on the bill.

Mr. YARBOROUGH. Mr. President, I yield to the majority leader 3 minutes on the bill, or such time as he may desire.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to the consideration of executive business.

NOMINATIONS REPORTED BY THE COMMITTEE ON THE JUDICIARY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the nominations reported favorably today by the Committee on the Judiciary.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The nominations will be stated.

U.S. DISTRICT JUDGE

The legislative clerk read the nomination of Bernard J. Leddy, of Vermont, to be U.S. district judge for the district of Vermont.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

U.S. CIRCUIT JUDGE

The legislative clerk read the nomination of David W. Dyer, of Florida, to be a U.S. circuit judge for the fifth circuit.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

On request of Mr. MANSFIELD, and by unanimous consent, the Senate resumed the consideration of legislative business.

ORDER FOR COMMITTEES TO MEET TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may meet until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1966

The Senate resumed the consideration of the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLAND. Mr. President, I shall take only a few minutes to answer two of the points that have been brought up by my distinguished friends who, for some strange reason, are supporting that pro-

vision of this bill which would include, on a rather general scale, agricultural labor.

The first point was made by my friend the Senator from Texas, who quoted very liberally from a letter from the Farmers Union supporting the inclusion of agriculture within the coverage of the minimum wage bill.

He could not have done anything which would more clearly illustrate the fact that this bill is primarily supported by the liberal wing of the labor movement, and by those others who subscribe to ultra-liberal tendencies, and who think that the proper thing is to put all business, all the people of the United States, under and subservient to Federal agencies here in Washington.

The Farmers Union was organized by organization workers of the CIO, and as a helpful subsidiary of the CIO. It has always maintained that close connection with the highly liberal wing of the labor movement. It still speaks for that movement; and the very fact that this strong letter should have come from the president of the Farmers Union indicates more clearly that many words who is behind this particular effort.

Mr. President, I wonder why my distinguished friend did not state that the Farm Bureau Federation, which is the organization of the really successful farmers, generally speaking, throughout this Nation, a tremendous organization—consisting, according to my recollection, of about 1,800,000 farm families—is vigorously opposing this bill. I wonder why he did not look at the record of the hearings, and notice, on page 789 and following, statements of very distinguished representatives of the Farm Bureau from the State of Texas who appeared to testify against this bill.

The first statement appears on page 789 of the record, a statement by William R. Deines, executive vice president, Texas Citrus & Vegetable Growers & Shippers, of Harlingen, Tex. I shall not attempt to quote from that statement, which is a very full one, but I simply state that he is vigorously against this bill, or any inclusion of agricultural labor under the coverage of the Wage and Hour Act.

The second statement to which I refer is on page 797 of the printed record, the statement of Othal E. Brand, grower, president of Griffin & Brand, McAllen, Tex. Again I shall not attempt to quote from that statement, but I state—and it may not be contradicted—that he is vigorously against the inclusion of agricultural workers under the provisions of the Wage and Hour Act, and he quotes a resolution of a farm bureau federation—the National Farm Bureau or the State Farm Bureau, one or the other.

The third statement is by H. L. "Hub" King, director, Texas Farm Bureau; and that appears on page 801 of the printed record. There could not be a stronger statement against the extension of minimum wages to cover farmworkers or farm industries than this statement of Mr. King.

I am not as well acquainted with these gentlemen from Texas as is the Senator from Texas, but they speak for very fine organizations, and they quote resolu-

tions of very fine organizations. They speak good sense, because they tell of the gradual, all-too-fast removal of production of fruits and vegetables from Texas down into Mexico, and they tell of the plight of the small people, and of the fact that though this legislation would affect primarily the large producers, it would certainly affect the small, because they would have to compete for their workers.

Mr. President, there is no doubt about that. They would either have to pay whatever rate was paid by the large growers, or satisfy themselves with using inefficient people who could not stay on the payrolls of the larger farm organizations. There is no doubt of that. Commonsense tells us that the less efficient the workers are who are employed by the smaller members of the agricultural community, the more difficult they will find it to keep their heads above water.

The second point I make is akin to the first. It is in response to a point made by my distinguished friend from New York [Mr. JAVITS]. He stated that the real reason why he is supporting this bill so ardently is that he thinks it will stop the flow of the farm people from the rural areas to the great cities. That is what he wants to do. I do not know why he wants to do it, because I think he needs more of the conservative thinking people there in his great city—and I think that is true elsewhere as well—than they now seem to have, judging by the demonstrations which we hear about, and the other things which are happening.

But I merely wish to say to him that his conclusions as to the effectiveness of this law differ completely from the conclusions of the three very famous economists whom I have already quoted in my principal remarks, and whom I shall take the liberty of quoting again, because I think their statements do bear weight, and I think that they are so very opposite from the conclusions reached by the Senator from New York that they should again appear in the RECORD at this point.

These three economists are Prof. James Tobin, the late President Kennedy's economic adviser, Prof. Arthur Burns, former head of President Eisenhower's Council of Economic Advisers, and Prof. Gottfried Haberler of Harvard University.

Professor Tobin said:

People who lack the capacity to earn a decent living need to be helped, but they will not be helped by minimum-wage laws, trade-union wage pressures or other devices which seek to compel employers to pay them more than their work is worth.

He says more than that. I shall not attempt to quote again the full statement.

Professor Burns said:

The broad result of the substantial increase of the minimum wage in recent years has therefore been a curtailment of job opportunities for the less skilled workers.

And Professor Haberler said:

Raising the minimum wage would thus be an irresponsible antisocial measure, reducing job opportunities of the poor, promoting inflation and retarding growth.

I read that into the RECORD because it seems to me so clear that very responsible authorities, who are experts in this field, come to the exact opposite conclusion from that stated by my distinguished friend from New York. They think that the imposition of minimum wages to the agricultural work force of this Nation will deprive many of the less efficient ones of any chance to make a living, and will send them bawling to the cities. They think that it will also hurt the smaller farmers, who have to rely upon the inefficient, if it comes to this kind of a tragedy in the employment picture of American agriculture.

Mr. President, I hope that our amendment will be agreed to. I am quite willing, of course, as always, to abide by the verdict of the Senate.

However, let those Senators who contemplate voting for this provision in the bill remember that the rural communities of the Nation do not favor this provision and they are not going to react kindly to it. They will be against the Senators and Representatives and those who favor this kind of unsound and unreasonable proposal if this kind of proposal is enacted into law and is followed in a progressive way—which the wage-and-hour legislation has shown by its past history, always stepping up, escalating, going from smaller coverage to greater coverage and from a small wage to a greater wage, and always imposing more and more difficult burdens. I just call attention to that because I do not want any Senator casting his vote for this particular measure to be unaware of the fact—which I believe to be the fact, with the small exception nationwide of the National Farmers Union—that the farmers of this country are against this proposal.

The farming communities are against this proposal. They know that it will cut down on the size of the small farming communities. They know it will cut down on the population of the small farming communities. They know that the enactment of the pending bill means a tragedy for them and for the countryside which they hold most dear.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. YARBOROUGH. Mr. President, since the distinguished Senator from Florida has referred to my quoting of certain letters from the National Farmers Union and has referred to the table contained in the transcript of hearings before the Migratory Labor Subcommittee, I point out that three people appeared from Texas to testify against the pending bill.

I point out that on April 12, in the testimony given that day before the subcommittee headed by the distinguished Senator from New Jersey [Mr. WILLIAMS], there were 10 witnesses from Texas, including 1 U.S. Representative, Representative GONZALES. Most of those who appeared to testify for the bill represented different organizations. Three people appeared to testify against the bill.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield.

Mr. HOLLAND. Mr. President, did farm organizations testify for the bill? I did not find any such record. There were representatives of churches who testified.

Mr. YARBOROUGH. Churches were represented. One witness was from the Governor's Coordinating Office of Economic Opportunity. One was from the Bishop's Committee for the Spanish Speaking, San Antonio. One was for the AFL-CIO. One was Harold Kilpatrick, executive secretary, Texas Council of Churches, Austin, Tex. He is a good friend of mine. I know him better than I know any of the others.

I point out that I do not attribute a great deal of importance to the number of witnesses who testified.

Mr. HOLLAND. Did a single one of the witnesses named by the Senator represent the farming community of Texas?

Mr. YARBOROUGH. I point out that the Senator mentions the Farm Bureau. The Farm Bureau goes out and signs up members of the chamber of commerce. I do not criticize the organization for doing this. However, in a recruiting campaign in my home city of Austin, Tex., they recruited every member of the chamber of commerce for membership in the Farm Bureau. I do not criticize them. Everybody likes to have a big organization.

The National Farmers Union limits its membership to active operators of farms. I do not criticize the Farm Bureau for its membership.

I have met two of these witnesses. I have met Mr. Brand. I saw him once in my life. I do not know Mr. Deines. I do not know 2 out of the 3. I did see the other gentleman one time, but not on a legislative matter.

Mr. President, the other remark that the Senator from Florida made—and I think it is very significant—is that the farmers are afraid of this bill and are against it. I agree with that statement.

The farmers have been propagandized. They have not been told the truth about this legislation. There has been no way to get to them the fact that the bill covers only 1.6 percent of the farm operators of America. That 1.6 percent of the farm operators hire 39 percent of the farm labor in America. They are the big operators. They are the ones who are squeezing the independent family farmers to death with cheap wages.

Millions of family farmers operate their farms without hiring a single hired hand. They must put their own capital and labor into the operation and compete against the 60- and 70-cent-an-hour wages paid on the big farms by the big corporate type farmers.

That is what is driving the family farmer off his farm and driving him into the city where he must compete with that cheap, big, factory type of farm.

Mr. President, I yield back the remainder of my time.

Mr. HOLLAND. Mr. President, the farmers throughout the Nation are against the pending bill, and the farming communities are against it. They are against the inclusion of farmworkers. They are not especially concerned with the other features of the bill.

The testimony of witnesses from the

State of Texas could be duplicated in every other State by witnesses from the welfare and union organizations who are for the bill. However, they do not know the tragic consequences of the enactment of the bill and its application to agriculture as well as the agricultural people do.

I stand upon the attitude and the position of the best producers, those who are producing the food and fiber for the Nation. They are entitled to fair treatment from the Senate. We have heard no supporting word for the bill from the Farm Bureau, the Grange, the National Association of Cooperatives, and many of the other highly reputable farm organizations. And, we will not hear any such word because those organizations are not for the bill.

Mr. President, I hope that we may now get on to a vote on the amendment.

Mr. WILLIAMS of New Jersey. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. WILLIAMS of New Jersey. Mr. President, when the minimum wage law was created in 1938, were any of the industry spokesmen, who testified, for the minimum wage law?

Mr. HOLLAND. Mr. President, I was not here at that time. I do not know the answer to that question, but I prefer to rest my answer upon the statements just made by my distinguished friend, the Senator from Louisiana [Mr. ELLENDER] who was here and who served on the committee which reported the bill and conducted part of the hearings.

According to everything the Senator from Louisiana told us, agriculture was left out of the bill deliberately and completely because it was felt that the bill should not apply to agriculture. That is the issue at this time.

Mr. WILLIAMS of New Jersey. The issue then was in manufacturing and industrial production. However, I wonder if any of the producers and manufacturers at that point expressed any favorable comment about a minimum wage for industry. It is my recollection that they did not.

Mr. HOLLAND. The Senator may be older than I am, and he may have been around at that time.

Mr. WILLIAMS of New Jersey. I only look older.

Mr. HOLLAND. Mr. President, the Senator from Florida was still practicing a legitimate profession at his home in Bartow, Fla., in 1938. He was not here and is not able to answer that question.

Mr. WILLIAMS of New Jersey. At a later time, I shall quote a distinguished Representative, whom I did not know, who spoke on the question of agricultural worker coverage during debate on the 1938 act. His last name was Wilcox. He came from the great State of Florida which the Senator represents. Does the Senator recall Representative Wilcox?

Mr. HOLLAND. I remember Representative Wilcox very well.

Mr. WILLIAMS of New Jersey. Mr. President, at a later time I shall quote that Floridian.

Mr. HOLLAND. I shall listen with great interest.

Mr. President, I yield back the remainder of my time.

Mr. YARBOROUGH. Mr. President, I yield back the remainder of my time in opposition to the amendment.

Mr. KUCHEL. Mr. President, I send to the desk my amendment No. 763 and offer it in the nature of a substitute for the pending amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read, as follows:

In lieu of the various perfecting amendments proposed by the Senator from Florida [Mr. HOLLAND] and others, I offer a substitute to strike out all of lines 12 through the word "thereafter" in line 16 on page 53, and insert the following: "not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during the second year from such date, not less than \$1.30 an hour during the third year from such date, not less than \$1.45 an hour during the fourth year from such date, not less than \$1.60 an hour during the fifth year from such date, and not less than the minimum wage rate prescribed by section 6(a) (1) thereafter".

The PRESIDING OFFICER. Who yields time?

Mr. KUCHEL. I yield myself 15 minutes, Mr. President.

Mr. President, I quote from page 19 of the Senate committee report:

The wages paid many farmworkers are far below the minimum wage standards established by the act. The minimum wage for covered agricultural workers will be \$1 an hour beginning February 1, 1967; \$1.15 an hour beginning February 1, 1968; and \$1.30 an hour beginning February 1, 1969. Room, board, and other facilities customarily furnished employees by employers are "wages" according to their fair value or reasonable cost as provided for in section 3(m) of the act.

That is the law today, and under this legislation would of course remain the law. It is untouched.

Mr. President, may we have some order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KUCHEL. Continuing, Mr. President:

In the case of hand harvest workers paid on a piece rate basis, the employer will be considered as complying with the act if the hourly average of the aggregate earnings of all such workers during any workweek exceeds the minimum hourly wage. However, in no event may any individual worker be paid less than 75 percent of the applicable minimum wage.

Mr. President, my interest in the subject of the minimum wage for agriculture is hardly new. Certainly, it is not novel. Over a year ago, in the Senate, I offered legislation providing for a national minimum wage for agricultural workers.

I congratulate the Senate committee for what it has done, as, indeed, I congratulate the House of Representatives for what it previously did. Both recognize, at long last, a principle—that a national minimum wage for farm labor in this country is just as relevant for consideration by the Congress as a national minimum wage for industrial workers, and ought to be considered in the same fashion and in the same bill.

My regret, obviously, is that what the Senate committee has done is to start

the farmworker off at \$1, raise it the second year to \$1.15, raises it the third year to \$1.30. My amendment is revised from the form in which I offered it a year ago, and would provide a continuation of the annual steps which the pending bill presently requires, providing in the fourth year a raise to \$1.45 an hour, and in the fifth year to the national minimum wage.

I do not know whether anyone so far has translated what these minimum wage figures will mean. It is relevant to observe that in 1967, under the minimum wage now provided, the munificent sum of \$40 a week will be available to a farmworker in America under a minimum wage of a dollar an hour. And that \$40 a week for an American farm laborer, commencing next February 1, by this bill, is gross and not net.

Leaving aside the deductions that will be required to be taken from the \$40 by various excises both of the Federal Government and of the State; and considering the gross figures, the farmworker will be guaranteed that he will get no less than \$40 a week. In 1968 it will go to \$46 a week; in 1969 it will go to \$52 a week; in 1970 it will go to \$58 a week; in 1971 it will go to \$64 a week—all under the bill and under my amendment.

Mr. President, when I first came to the Senate there was on the statute books a law known as Public Law 78. Public Law 78 was a special statute, one which was required, in the opinion of Congress, for the benefit of the farmers of this country. It set up in a precise fashion a means by which the American farmer, if he found in any State that he was unable to attract American domestic farm help, and if that fact was confirmed by the government of his State, might have the opportunity to turn to the Government of the United States and, under the procedures outlined in Public Law 78, would be able to hire foreign nationals on a temporary basis in order to help him harvest his crops. It helped to secure a sufficient supply of labor. In many States, particularly in my own State of California, domestic labor was unavailable in sufficient quantities to harvest the crop in high season—even when growers made substantial efforts at recruitment over a wide area.

I believe in Public Law 78, and voted for it. It was not very fashionable sometimes to do so, and I regret that it finally died. I salute my friends on the other side who stood here and championed the continuation of Public Law 78. But the fact remains that during the time it was in effect, tens of thousands of foreign nationals came to the States of the American Union to help the American farmer because there was not enough American labor available to work on the farms of this country.

A little more than a couple of years ago, Public Law 78 died. It died in the Senate Chamber. Then, some of my constituents asked the Secretary of Labor to utilize the authority which he had under the immigration statutes in this country nevertheless to recognize a shortage of agricultural labor and to permit the use, on a temporary basis, of foreign farm labor personnel to help.

The distinguished Secretary of Labor announced that he would require certain conditions precedent in order to make a determination that an American farmer needed temporary foreign help. In the case of a farmer in California, he determined, first, that the farmer in California would have to offer \$1.25 an hour to any American, and find thereafter that no American was available at that price, or insufficient Americans were available at that price, before the Secretary of Labor would consider whether or not to recommend foreign nationals to come in and assist.

Subsequently, in April of last year, the Secretary of Labor raised the requirement with respect to the California farmer to \$1.40. At the same time, across the border, in the State of Arizona, the Secretary originally said the Arizona farmer would have to pay \$1.05 an hour, and, subsequently, in April of 1965, raised that condition precedent to \$1.25. In Florida, he started out with 95 cents and raised it to \$1.15. In Texas, he did the same thing. In Virginia he came up with \$1.15 an hour.

These wage levels of last year and the year before are well above the standards to be applied by this act when it goes into effect next year. What I am saying, Mr. President, is that the agriculture of this Nation requires an assured labor supply, and the way to do it is to provide a minimal standard of life for those who would choose to work on the soil.

Mr. President, I was interested in what was said earlier in this debate, which I have tried to follow, as the basis upon which this legislation first was enacted into law almost 30 years ago.

Mr. President, I shall quote from page 2 of the report, which in turn quotes the Secretary of Labor:

The Fair Labor Standards Act of 1938 was a commitment to improve living standards by eliminating substandard working conditions in employment subject to Federal authority over interstate commerce. That commitment, incomplete when it was made, has become less complete with the passage of time. The law has not been kept in line with the advancing economy; and some of its guarantees mean less, comparatively, than they did 27 years ago (p. 33, pt. I, of hearings).

Maybe they do mean less, but God knows that they do not mean more.

The committee report states at the bottom of page 19:

A 1965 survey of 1.4 million hired farmworkers indicated that 70 percent earned less than \$1.25 an hour; 50 percent earned less than \$1 an hour; and 34 percent earned less than 75 cents an hour. Average hourly earnings in agriculture were \$1.01 an hour on July 1, 1966, in the United States. In some States the average falls below 60 cents an hour and there are reports of wages of 30 cents an hour.

Mr. President, if there was any wisdom, if the public interest was served at all a third of a century ago in the Congress concluding that it was establishing a minimum wage for people who worked in industry and commerce, so long as their work touched commerce, then there is an indispensable reason in 1966 for this Congress to include, at long last, American farmworkers on a similar nationwide basis. That principle is now recognized in the legislation which is before us.

What is the reason, Mr. President, that however it is chopped off, that when a worker gets to \$1.30 an hour or \$52 gross a week on February 1, 1969, that he has had enough? Why stop there?

The truth is, Mr. President, that there is no reason to make any distinction between men and women in one part of the economy of this country on the one hand, and those who labor in another.

It would be justly in the interest of the national economy, if, generally speaking, a man or woman could know that he could work on the west coast or east coast, in the North or in the South, if his work touched commerce, with the benefits of the same national minimum wage law.

I am glad to observe that this subject has been discussed in a political fashion in California. I am glad to observe that the leaders of the party of the distinguished senior Senator from Texas have urged a national minimum wage for agriculture; and I am glad to observe that my party in California has iterated and reiterated its interest in the establishment by the Congress of the national minimum wage.

Mr. President, I ask unanimous consent to have printed in the RECORD excerpts of the last three platforms of the Republican State Central Committee of California.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

[1962 PLATFORM]

PROPOSED PLATFORM PLANK—AGRICULTURE

The Republican Party recognizes Agriculture as the major industry in the State of California. Agricultural production adds 3.2 billion dollars of new wealth annually to our state. The added value generated by processing, transporting, distributing and selling of California's farm products adds 10 billion dollars. Of the over 200 crops grown commercially in California less than 5% of them receive federal support, and subsidies account for only 2.2% of the California agricultural income. We produce 10% of the nation's agricultural income from 2.5% of America's farms. One third of the nation's food processing industry is in California. Over half million farm workers are used at the peak of the season. They are the highest paid in the nation.

The Republican Party recognizes that our agriculture has obtained this position through individual initiative and incentive on the part of California farmers. In order to retain a sound agriculture, the Republican Party pledges to:

1. Restore non-partisan agricultural agencies by appointing men to responsible positions who are thoroughly versed in the problems of California's agriculture.

2. Continue to support California's voluntary marketing programs.

3. Support the continuation of Public Law 78 which provides, among other things a supplemental labor force when domestic labor is not available. This agreement provides protection of the wage levels and jobs of domestic agricultural labor.

4. Provide fair and impartial treatment by public agencies responsible for the administration of labor programs in agriculture.

We recognize the farm workers right to organize, but we object to unfair organizing methods and improper objectives which have caused severe crop losses.

5. Support a federal minimum wage for agricultural workers and oppose a state minimum wage on the basis that it would place California's agriculture in an unfair competitive position.

6. Takes steps to assure that California's specialized agriculture crops will receive a fair share in our expanded world markets.

[1964 PLATFORM]

The Republican Party of California recognizes that California's national primacy in agriculture was achieved through the initiative and the incentive generated by a free economy. We point by way of contrast to the desperate condition of agriculture in every collectivist society. In order to protect our state's major industry the Republican Party pledges continued opposition to Democrat-sponsored programs which would imperil agriculture in California.

Specifically, we pledge continued opposition to the termination of Public Law 78, without a reasonable and efficient substitute action for supplemental farm labor when a domestic supply is not available. We believe that the State Department of Employment should be the final authority on certification of labor needs without interference from the Federal Government. We commend the California Republican Congressional delegation for its unanimous opposition to the cancellation of the Bracero Program. We note that even the Democratic Secretary of Agriculture conceded recently that there will be a shortage of available farm labor in California.

The removal of any efficient supplemental labor source would involve not only economic upheaval among domestic labor and industry, but would also upset the consumer. The loss of income to Mexico would also result in economic upheaval to that country. This program is the finest Peace Corps available and involves earning by working rather than the giving of foreign aid.

We pledge continued opposition to Democrat-sponsored proposals for an arbitrary state minimum wage for farm workers. California farm wages are currently the highest in the nation, being on the average 40 cents per hour over the national average. We endorse a national minimum wage for farm workers so that California will not be in a competitive disadvantage with the rest of the nation.

We pledge continued opposition to Democrat-sponsored proposals to bring farm workers under unemployment insurance at at cost to California farmers of almost \$100 million annually. This proposal would only increase the competitive disadvantage that California farmers now face.

We pledge continued opposition to Democrat proposals which would seek to solve the farm labor crisis by importing 40,000 to 60,000 families from out of the state, the cost to be borne entirely by the farmer. The social and economic impact of this program would affect all California taxpayers, businesses, schools, and even those under relief programs.

We oppose any scheme for unduly restrictive control or the blanket condemnation of agricultural pesticides. California currently has more laws and stricter enforcement to control the use of agricultural chemicals than any other state.

We are firmly committed to a restoration of nonpartisanship in the administration of California's agricultural agencies.

[1966 PLATFORM]

AGRICULTURE

The Republican Party of California recognizes that California's national primacy in agriculture has been achieved through the initiative generated by a free economy and through state and federal governmental policies designed to protect rather than undermine the competitive position of California agriculture.

California should not be placed at a competitive disadvantage relative to other states. Major legislation affecting agricultural employees including minimum wage and employee representation should be considered on a uniform national basis. Full-time

members of the farm labor force are entitled to the same social insurance benefits as other workers.

Agriculture should be free from production controls at both the state and federal levels so that its ability to operate in the free market place is not unduly restricted.

CIVIL RIGHTS

The protection of and the equal opportunity for full employment of individual rights is the cornerstone of the Republican Party. The Republican Party, the party of Lincoln, is opposed to racial or religious discrimination or bigotry in any form. The Republican Party has led in the initiation and enactment of human rights legislation since the time of Lincoln.

The Republican Party reaffirms its dedication to the elimination of discrimination in California based on race, creed, national origin or sex. The Republican Party also recognizes that attempts to achieve such elimination of discrimination by laws which are not acceptable to the great majority of our citizens are unworkable. Such laws, not supported at large, can, by their lack of acceptance, help defeat the very purpose for which they are enacted.

The Republican Party pledges to support:

1. Programs providing equal educational opportunities for all Californians.

2. Programs of labor, industry and government leading to equal employment opportunities.

3. The repeal or amendment of the Rumford Act of 1963 and its replacement or amendment by constructive legislation which protects the free choice and constitutional rights of all citizens.

4. Programs, both governmental and private, based on education and mutual understanding, which can lead to the solution of the serious housing problems of our minority group citizens.

Mr. KUCHEL. Mr. President, I wish to allude to one part of the bill which limits the applicability of these agricultural employee provisions to those farmers who during any one quarter in the previous four have utilized 500 man-days. That, in itself, will serve to eliminate a large section of the farmers of America.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KUCHEL. Mr. President, I ask unanimous consent to proceed for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KUCHEL. Mr. President, indeed this legislation would affect only a very small percentage of the farms in this country. It would, however, operate with respect to some 400,000 farmworkers.

Mr. President, I shall make one general observation and then I shall conclude.

I spoke briefly the other day before the subcommittee dealing with the problem of cities. Every city in this land is deeply concerned with the seething potential upheaval, as well as the actual disturbances which have taken place across this country. We are interested in getting the best guidance possible to preserve our country, to make it stronger, and to give the American family a little better opportunity to go forward.

One distinguished educator, speaking on this subject in my State, said earlier this year:

The economic unity of these families depends on daily wages. What can we predict of a nation which places these children at an early disadvantage as a result of median

earnings for 245,000 male adults of \$774 per year? This cannot possibly begin to sustain the basic needs for decent family living. Certainly, a minimum wage rate for an adult male worker should enable him to rear a family in decency and respect. What standard of living decency can be expected where 72 per cent of male adult workers earn less than \$3,000 per year? The advocated minimum of one dollar and forty cents per hour as a national minimum for field work is hardly adequate today.

Mr. President, I agree. At least we should provide in this legislation that the American farmworker is going to be treated exactly the same as any worker in the American economy.

Mr. YOUNG of North Dakota. Mr. President, will the Senator yield?

Mr. KUCHEL. I yield.

Mr. YOUNG of North Dakota. The Senator spoke of \$1 and \$1.25 an hour for farmers. Does the Senator include in that figure housing, which is often furnished, a garden, and other things? Is that included as part of the \$1.25?

Mr. KUCHEL. It is, and I am glad the Senator asked me that question. Those things which are ordinarily room, board, and other facilities, customarily furnished employees, are wages and are a part of the provisions of the bill, and also of my amendment.

Mr. YOUNG of North Dakota. Are they deducted from the \$1.25 minimum?

Mr. KUCHEL. They would make up that portion of the salary for the work week that they would represent.

Mr. YOUNG of North Dakota. That would be a very complicated business, would it not, deducting housing and things of that order?

The PRESIDING OFFICER. The time of the Senator from California has expired.

Mr. YARBOROUGH. Mr. President, I yield myself 5 minutes in opposition to the amendment offered by the distinguished Senator from California.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. YARBOROUGH. Mr. President, I appreciate the remarks of the Senator from California. I think there is much merit in them, borne out by the abundance of his experience. California has the greatest agricultural income of any State in the Union. My State of Texas has the most farmers, and therefore the most farm families, but California has the greatest agricultural income. Under this situation, there is much merit in the amendment.

However, this matter was voted on in the subcommittee and in the full committee. That position has been stated, on page 19 of the report, as follows:

The committee is fully aware of its responsibility in extending the minimum wage standards of the Fair Labor Standards Act to agricultural employment for the first time. The initial rate established for farmworkers is the same rate set for all newly covered workers—\$1 an hour in February 1967. The bill further provides that the increases in the minimum wage for farmworkers will parallel the increases provided for newly covered nonfarmworkers—in February 1968, to \$1.15; and in February 1969, to \$1.30. While the committee has provided for two additional increases for nonfarm newly covered workers so that all nonfarm-

workers will be required to be paid at least \$1.60 by February 1969, no schedule of escalation has been included to raise farmworkers to the Federal minimum wage of \$1.60. It is the intention of this committee that all workers under the act be subject to a single minimum wage. The committee action in limiting the pattern of escalation for agriculture at this time to \$1.30 in February 1969 is to insure that there be a careful evaluation of the effects of applying a minimum wage to agriculture. The committee expects that agriculture will adjust without adverse effects as have other industries under the act and that additional increases will be provided in the future.

Mr. President, grave misgivings have been expressed by the Senator from Florida, the Senator from Louisiana, and the Senator from Mississippi, that this might limit agricultural opportunities for farm labor. I do not agree with that premise. In the language of the Declaration of Independence, having "a decent respect to the opinions of mankind," I respect their great knowledge, and their great experience. However, both the subcommittee and the full committee voted on this matter and we have limited it to 2 years. We have kept it at the same level with the other amendment for 2 years. We thought it best, with respect to the grave misgivings of some that this might adversely affect agriculture, to stop there and look at it again before we provided further escalation, to see whether it has been beneficial to agriculture and to American farm families, as the majority thought it would. If it works adversely, which I do not for a moment think it will do—but if it does, we would see what other steps should be taken. That is why we stopped the escalation not because it is too much, not because it can bring the farmer up, but to find out what the effect on agriculture will be.

I commend the Senator from California for bringing this to the attention of the Senate.

I sympathize with his position. I realize the need of these people for higher earnings.

Mr. HOLLAND. Mr. President, will the Senator from Texas yield me 5 minutes?

Mr. YARBOROUGH. Mr. President, I yield 5 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 5 minutes.

Mr. HOLLAND. Mr. President, earlier in the day, in the course of argument on the bill, I and other Senators pointed out the fact that there are those who, standing in the wings, are anxious to escalate the minimum wage rate for agricultural workers at the earliest possible date, in order to bring agricultural labor to a comparable basis, or on a parity with industrial labor.

I did not anticipate that we would have that point demonstrated so clearly, and so soon, as it has been in the last few minutes, by the distinguished Senator from California in introducing his amendment which proposes to put agricultural labor on the identically same rate as industrial labor, beginning 5 years from now and extending it continuously thereafter.

Mr. President, it is apparent that that kind of treatment is notice to the farming community of the Nation that the traditional differences and the natural differences between agriculture and agricultural workers and industry and industrial workers are to be abandoned as quickly as possible by the ardent adherents of the bill, or at least by some of them.

I thank the distinguished Senator from Texas for his position. I greatly approve of his taking a position which, for the time being, on this matter, is much more favorable to agriculture than is the amendment of the Senator from California. I sincerely trust the amendment offered as a substitute by the Senator from California will be defeated.

Mr. YARBOROUGH. I thank the Senator from Florida. I appreciate that he recognizes how moderate the committee has been with respect to agriculture.

Mr. LAUSCHE. Mr. President, may I have 2 minutes to ask questions of the Senator from California?

Mr. JAVITS. I yield 2 minutes to the Senator from Ohio.

Mr. LAUSCHE. The Senator from North Dakota [Mr. Young] asked the Senator from California whether, under his amendment, there would be deducted from the fixed pay the value of lodging and food furnished. I understood the answer of the Senator from California to be that it would.

Mr. KUCHEL. My amendment is not so drawn that it specifically provides that. It refers to the present law, which does precisely provide that. The present law—

Mr. HOLLAND. The pending bill.

Mr. KUCHEL. Let me read from the report. I read from page 19:

Room, board, and other facilities customarily furnished employees by employers are "wages" according to their fair value or reasonable cost as provided for in section 3(m) of the act.

The "act" refers to the present law. Mr. President, I now yield 5 minutes to the able Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 minutes.

Mr. WILLIAMS of New Jersey. Mr. President, I do not want to embarrass the chairman of the Labor Subcommittee, but I have been most impressed with the full knowledge and eloquence which he has brought to this debate. I am proud to serve on that subcommittee, I am proud of my chairman. But I am proud, too, to support the minority side, on this amendment as expressed by its second in command, the Senator from California [Mr. KUCHEL].

Mr. President, agriculture is a core activity in the economy of this country. For the life of me I have not been able to understand the reasons why agriculture has been so backwardly treated when it comes to economic and social legislation for its workers.

I mentioned in our brief discussion with the Senator from Florida [Mr. HOLLAND], that I would quote from the 1938 debate on the Fair Labor Standards Act. I now quote Representative J. Mark Wil-

cox on the floor of the House of Representatives, when he said during that debate:

Now it is most remarkable that a measure purporting to be in the interest of the underpaid working people of the country should exempt from its operation so many groups and classes of workmen...

The framers of this bill have been very careful to provide that it shall not apply to agricultural labor. God knows if there is any class or group of people in America who are underpaid and whose very existence is made unsafe and uncertain both by man and by nature it is that group who must depend upon agriculture for a livelihood.

It was at that time that the decision was made not to include agricultural labor under the Fair Labor Standards Act of 1938. Indeed, I think the proposal before us today represents the first time that a determined effort has been made over this long period of two decades to include agriculture. And what have we done with the bill with reference to this subject? We have included only 1.6 percent of the farms of the land. We have excluded hand harvests workers who were employed on a piece-rate basis. We have excluded and excluded. We have excluded all but those that are substantial producers of farm products. I think, and the Senator from Texas will correct me if I am in error, we have included only those who would be considered in agriculture as being big business.

Mr. YARBOROUGH. The Senator is correct.

Mr. WILLIAMS of New Jersey. In the 20-year period, from 1946 to date, I do not know what the total national contribution has been to the agricultural community. But I believe that in 1946 the Commodity Credit Corporation was started. I do not know how many billions of dollars we have put into it to make big business possible in agriculture. I have supported farm programs that have made it possible for us to take, on loan, surpluses to keep agriculture stable.

This is not a disadvantaged industry by any means. I am sure the senior Senator from Louisiana [Mr. ELLENDER] has figures showing how much money has been placed into these programs. The large amounts that people living both in the cities and on the farms have contributed to this program which makes it possible for us to have the most vital and dynamic agricultural community in the entire world.

We have had \$6 billion years in agriculture, and this program has been going on since 1946.

Now, here is the other side of the coin. Notwithstanding the national contribution to agriculture, the fact is that the average farmworker earns under \$8 a day and is employed, on the average, for 150 days during the year. His average annual income has been less than \$1,000; and even after Public Law 78 was terminated by Congress, the amount of a farmworker's wages, in an average basis, amounts to only \$1,200.

As far as farm income between 1940 and 1964 is concerned, farm income has increased from \$11.1 billion to \$42.2 billion.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield 2 additional minutes on the bill to the Senator from New Jersey.

Mr. WILLIAMS of New Jersey. Between 1949 and 1965—and this is comparing dollars—the real income to the farmer, allowing for the increase in the cost of living, has gone up by 40 percent.

I could go on reciting figure after figure. We have a healthy agricultural economy in this country, and the only individuals not benefiting from it are those who bring in the crops.

So, Mr. President, I support the amendment offered by the Senator from California [Mr. KUCHEL] to bring farmworkers under the same minimum wage rates as all other workers newly covered by this bill—\$1.60 an hour after 5 years.

The purpose of minimum wage legislation is to provide a minimum living wage under which employes salaries shall not fall. For too long we have discriminated against our Nation's farmworkers by not providing them with this basic social benefit. Now, as we for the first time legislate to bring agricultural workers within minimum wage coverage, we are again discriminating against our Nation's farm laborers by providing them with a different and less effective method of coverage. Any rationale for such discrimination has long since disappeared.

Agriculture is no longer the family farm operation that it was at the turn of the century. Rapid mechanization and increased growth in the size of our Nation's farms has in many ways made agriculture similar to our Nation's other large industries.

For example, between 1940 and 1965, the size of the average American farm increased from 175 acres to 342 acres. The value of assets used in agricultural production on the average farm increased from \$6,000 in 1949 to \$60,000 in 1965.

Gross farm income between 1940 and 1964 increased from \$11.1 to \$42.2 billion. Between 1949 and 1965, the average farmer received a 40-percent gain in real income after allowing for the rise in the cost of living. Yet the average farmworker today still earns a daily wage of under \$8, this is only slightly more than the hourly average wage of some skilled tradesmen in this country and certainly well below the minimum poverty level.

While there has been a substantial increase in wages over the last 2 years due mainly to the elimination of the bracero program, 70 percent of our Nation's farmworkers still earn less than \$1.25 an hour, 40 percent less than \$1 an hour, and 34 percent less than 75 cents an hour. Hourly average earnings in agriculture were \$1.01 an hour on July 1, 1966, but in some States the average falls below 60 cents an hour. The fact that the average farmworker is employed for less than 150 days during the year further aggravates this situation.

Certainly, no other segment of our population is so poorly paid, yet contributes so much to our Nation's health and welfare.

Even more shocking is the realization that the gap between agricultural and

nonagricultural earnings has widened during the post-World War II period.

Between 1947 and 1964, hourly wages in agriculture increased only 64 percent while wages jumped 108 percent in retail trade, 107 percent in manufacturing and 131 percent in contract construction.

More out of kilter, however, is the fact that the basic free enterprise principle of rewarding worker productivity, seems not to have caught on in farm economics. Output per man-hour in agriculture was 2.7 times as great in 1964 as in 1947, while in nonagricultural industries it was 1.6 times as great. One American farmworker feeds more than 2½ times the number of people he did 20 years ago. And the increased worker productivity of U.S. industry has been outstripped by agriculture by 2½ times.

With increased worker productivity and farm profits and production reaching all-time highs, it is indeed ironic that the Senate has before it a minimum wage bill which for the first time covers agricultural farm workers, yet covers them at a rate which does not even guarantee an income of \$3,000 a year, our Nation's poverty level.

Some have stated that if this amendment were passed the farmer would either be forced out of business by increased costs or be forced to pass these costs on to the consumer causing higher food prices. Nothing could be further from the truth.

As I have previously mentioned, farm income and production are today at all-time highs.

Moreover, food today is one of the biggest bargains on the market for the American consumer. For the years 1947 through 1949 actual food expenditures took up 26 percent of the average family income. By 1963 this figure had reached a low of 19 percent. For the years 1964 and 1965, only 18.5 percent of the average family budget was spent on food expenditures.

Farm labor costs are only a small part of the retail price paid for food by the consumer. Last year when farm wages had their greatest increases of the decade, food prices remained relatively stable. Grapes and carrots were at 5-year lows, and California oranges and lemons at 4-year lows. The average price of dried fruits and vegetables, in August of last year, were down 14.2 percent from those of August 1965.

Illustrative of the low labor costs involved in the production of our Nation's foods is that for a head of lettuce which has a retail price of 21 cents, the field labor cost is 1 penny, on a pound of celery retailing for 15½ cents a pound, the cost of field labor is 0.3 to 0.5 cent, and on lemons retailing at 24 cents a pound, the field labor costs are 0.6 to 1 cent.

With labor costs such as these, our Nation's farm economy can certainly afford to bring its workers out of their abject poverty by paying higher wages. The services which these workers perform by providing us with our bountiful harvest of fruits and vegetables should be rewarded with wages which will allow them to live in dignity and decency.

As Secretary of Labor Wirtz stated before the Migratory Labor Subcommittee on July 7, 1965:

Every industry is different from every other industry. But there are basic similarities, and the time for denying this as far as agriculture is concerned is passed. There may have been sounder reasons in some earlier period for the arguments that agriculture deserves, for some unidentified reason, a government guaranteed foreign labor supply, that normal personnel policies don't apply here, that the farm produce market won't support fair wages, that farm employment must be excluded from the coverage of laws regarding employment generally. But if there were once good reasons for these attitudes, they are now covered deep with history's dust.

I not only commend the Senator from California [Mr. KUCHEL] for offering this amendment, I applaud him.

Mr. KUCHEL. Mr. President, I yield 1 minute to the Senator from New York [Mr. JAVITS].

Mr. JAVITS. Mr. President, I shall support the amendment of the Senator from California. I did not support a similar amendment in committee because I did not feel a case had been made for it there. But having studied the facts and figures, and recognizing the facts that apply to factory and farmworkers, in essence, I think there ought eventually to be parity as between the minimum wage in the cities and the minimum wage on farms.

There is no provision in the amendment for overtime. There is a piece-rate exemption.

For all these reasons, the objective ought clearly to be stated in the law that it is the intention of Congress to provide parity so far as farmworkers are concerned. Hence, I shall support the amendment.

Mr. KUCHEL. I yield 2 minutes to the Senator from New York [Mr. KENNEDY].

Mr. KENNEDY of New York. Mr. President, I support the substitute offered by the Senator from California [Mr. KUCHEL]. I support it, first because it would defeat the proposal of the Senator from Florida [Mr. HOLLAND] to eliminate the farmworker coverage from the bill, a proposal which I strongly oppose; and, second, because it would have the equitable effect of bringing the treatment of farmworkers into line with that accorded other newly covered workers.

The provisions for farmworkers in the bill are actually very limited and very modest in scope, and, in my judgment, long overdue. President Roosevelt, for example, called for coverage of farmworkers in his message transmitting the proposal for the original Fair Labor Standards Act to the Congress in 1937.

Now, nearly 30 years later, when agriculture has become a far more mechanized, far more prosperous, far more commercial enterprise, we are finally getting part way around to doing what President Roosevelt called for.

I emphasize part way. The fact is that the minimum wage coverage for farmworkers in this bill will affect only a little over 1 percent of the Nation's farms. It will affect farms with seven or more full-time employees, and a farm of that size is quite a commercial enterprise.

And the pay which this provision guarantees to the 390,000 workers on the 1 percent of the farms affected is not going to make anyone rich. The initial coverage which Senator HOLLAND would eliminate, and which the Kuchel substitute would save, is only \$1 an hour. This will guarantee the great sum of \$40 a week—\$2,080 a year to the man who is fortunate enough to work all year. Thus the Senator from Florida would eliminate from this bill a guarantee of a wage which itself does not even rise to the poverty level. The problem with the farmworker provisions of this legislation is not that they are too extensive but that they are not extensive enough.

For example, the agricultural workers are not even scheduled to receive the full \$1.60 rate that other newly covered workers will receive by 1971. The rate for agricultural workers is scheduled to rise to \$1.30 in 1969, but no further increase is provided. Senator KUCHEL's substitute would remedy this particular inequity. It is one of the proposals which Senator WILLIAMS of New Jersey and I made in subcommittee to make the coverage of farmworkers more adequate, and I am glad to support it on the floor. It would bring a measure of equity to the treatment accorded farmworkers, giving them what other newly covered workers will receive, which seems only just.

Although the farmworker coverage in the bill is minimal in scope, it is nevertheless worthwhile, for it will improve the conditions under which some of our farmworkers toil. Last year farmworkers who worked only on farms during the year earned an average of \$689 for the entire year. They worked only 100 days on the average. Workers who had a little nonfarm work in addition had an average income of \$1,379. These wages are intolerable for a Nation as wealthy as ours. Thirty-four percent of the farm workers around the country were paid less than \$0.75 an hour last year. \$0.75 an hour is \$30 a week, \$1,560 a year. In some States, the average wage for farm workers was less than \$0.60 an hour. To guarantee a dollar on those large farms which are really commercial enterprises seems to be a modest proposal indeed.

And if there was any justification for not including farm workers in past years, it no longer applies. Agriculture, particularly on farms of the size covered by this bill, is now a mechanized industrial enterprise, and there is no reason to have inferior labor standards in such a situation.

Over the years, while we have neglected the conditions under which farm laborers work, they have been falling further and further behind their counterparts in the nonagricultural occupations.

Between 1947 and 1964, for example, hourly wages in agriculture increased 64 percent, while in the retail trades wages rose 108 percent, 107 percent in manufacturing and 131 percent in contract construction. In dollar figures, an average worker in manufacturing earns \$2.66 an hour, in the production of durable goods, \$2.84 an hour, and in nondurable goods, \$2.04 an hour. An average farm worker now earns \$1.01 an hour.

I believe the modest coverage contained in this legislation is the least we can do to begin bringing the long-neglected farm worker into some kind of share in the great wealth which our Nation has accumulated. I urge the Senate to adopt the substitute proposed by the Senator from California and thereby reject the amendment of the Senator from Florida.

Mr. KUCHEL. I yield back the remainder of my time.

Mr. YARBOROUGH. I yield back the remainder of my time. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, do I correctly understand that the first vote will come on the amendment in the nature of a substitute offered by the Senator from California?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Whatever results from that vote will then determine whether there will be a vote on the Holland-Ellender amendment?

The PRESIDING OFFICER. There will be a vote on the Holland-Ellender amendment whether it be amended or not.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). Mr. President, on this vote I have a pair with the distinguished Senator from Alabama [Mr. SPARKMAN], who is absent on official business. If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. NELSON (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Florida [Mr. SMATHERS]. If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. LONG of Louisiana. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Missouri [Mr. LONG], the Senator from Montana [Mr. METCALF], and the Senator from Alabama [Mr. SPARKMAN] are absent on official business.

I also announce that the Senator from Indiana [Mr. HARTKE], the Senator from Arizona [Mr. HAYDEN], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], the Senator from Alaska [Mr. GRUENING], and the Senator from Missouri [Mr. LONG] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from California [Mr. MURPHY] are absent because of illness.

The Senator from Idaho [Mr. JORDAN] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

If present and voting, the Senator from Utah [Mr. BENNETT], the Senator from Idaho [Mr. JORDAN], and the Senator from Wyoming [Mr. SIMPSON] would each vote "nay."

The result was announced—yeas 22, nays 64, as follows:

[No. 222 Leg.]

YEAS—22

Case	Kennedy, Mass.	Pell
Clark	Kennedy, N.Y.	Proxmire
Douglas	Kuchel	Ribicoff
Fong	Magnuson	Tydings
Hart	McGee	Williams, N.J.
Inouye	Moss	Young, Ohio
Jackson	Neuberger	
Javits	Pastore	

NAYS—64

Aiken	Ervin	Morton
Allott	Fannin	Mundt
Anderson	Fulbright	Muskie
Bass	Gore	Pearson
Bayh	Griffin	Prouty
Bible	Harris	Randolph
Boggs	Hickenlooper	Robertson
Brewster	Hill	Russell, S.C.
Burdick	Holland	Russell, Ga.
Byrd, Va.	Hruska	Saltonstall
Byrd, W. Va.	Jordan, N.C.	Scott
Cannon	Lausche	Smith
Carlson	Long, La.	Stennis
Church	McCarthy	Symington
Cooper	McClellan	Talmadge
Cotton	McGovern	Thurmond
Curtis	McIntyre	Tower
Dirksen	Miller	Williams, Del.
Dodd	Mondale	Yarborough
Dominick	Monroney	Young, N. Dak.
Eastland	Montoya	
Ellender	Morse	

NOT VOTING—14

Bartlett	Jordan, Idaho	Nelson
Bennett	Long, Mo.	Simpson
Gruening	Mansfield	Smathers
Hartke	Metcalf	Sparkman
Hayden	Murphy	

So Mr. KUCHEL's amendment was rejected.

Mr. YARBOROUGH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. I move to lay the motion on the table.

The motion was agreed to.

INCOME TAX TREATMENT OF EXPLORATION EXPENDITURES IN THE CASE OF MINING

Mr. LONG of Louisiana. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 4665, a bill relating to the income tax treatment of exploration expenditures in the case of mining.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 4665) relating to the income tax treatment of exploration expenditures in the case of mining and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. LONG of Louisiana. I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG of Louisiana, Mr. SMATHERS, Mr. ANDERSON, Mr. WILLIAMS of Delaware, and Mr. CARLSON conferees on the part of the Senate.

FAIR LABOR STANDARDS AMENDMENTS OF 1966

The Senate resumed the consideration of the bill (H.R. 13712) to amend the Fair

Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Florida.

Mr. YARBOROUGH. Mr. President, all time has been yielded back in opposition to the amendment of the Senator from Florida which would strike the provisions with respect to agricultural workers from the bill.

Mr. HOLLAND. Mr. President, I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Florida is recognized for 2 minutes.

Mr. HOLLAND. Mr. President, I call attention to the fact that there were 22 votes to put agricultural labor on parity with industrial labor. There were two live pairs. That makes 24 votes for that position.

If there is any better showing required that there is already sentiment existing to put agricultural labor on comparable rates with industrial labor, we have had that demonstrated here in the last few minutes.

I hope that the amendment can be agreed to.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. YARBOROUGH. Mr. President, I yield myself 1 minute on the bill.

The PRESIDING OFFICER. The Senator from Texas is recognized for 1 minute.

Mr. STENNIS. Mr. President, will the Chair restore the Senate to order?

The PRESIDING OFFICER. There will be order in the Senate.

Mr. YARBOROUGH. Mr. President, I point out that the amendment of the Senator from Florida would strike all agricultural labor from the protection afforded by the bill. The agricultural labor that would be covered under the bill involves only 1.6 percent of the farms in the country, 98.4 percent of the farms in the United States are exempt under the pending bill. That 1.6 percent of the farms in the country employ 390,000 farm laborers.

It is the position of the House and of the committee that we should support this very modest provision in the bill to give protection to some agricultural workers. Since the Kuchel amendment has been rejected, it would go only to \$1.30 and stop there.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I was about to yield back 20 seconds.

I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, can the Senator from Texas guarantee that if this measure becomes law there will not be a further encroachment on the little fellows which will crush them to death?

Mr. YARBOROUGH. We are not seeking to crush them to death. This involves only 1.6 percent of the farms all over America. This is a bill to protect the small farmers and put them in a competitive position.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the

Senator from Florida. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Alabama [Mr. SPARKMAN]. If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. LONG of Louisiana. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Alaska [Mr. GRUENING], the Senator from Missouri [Mr. LONG], the Senator from Montana [Mr. METCALF], and the Senator from Alabama [Mr. SPARKMAN] are absent on official business.

I also announce that the Senator from Indiana [Mr. HARTKE], and the Senator from Arizona [Mr. HAYDEN] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], the Senator from Alaska [Mr. GRUENING], and the Senator from Missouri [Mr. LONG] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from California [Mr. MURPHY] are absent because of illness.

The Senator from Idaho [Mr. JORDAN] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

If present and voting, the Senator from Utah [Mr. BENNETT], the Senator from Idaho [Mr. JORDAN], and the Senator from Wyoming [Mr. SIMPSON] would each vote "yea."

If present and voting, the Senator from California [Mr. MURPHY] would vote "nay."

The result was announced—yeas 37, nays 51, as follows:

[No. 223 Leg.]

YEAS—37

Allott	Fannin	Robertson
Bass	Fulbright	Russell, S.C.
Boggs	Hickenlooper	Russell, Ga.
Byrd, Va.	Hill	Scott
Carlson	Holland	Smathers
Cooper	Hruska	Stennis
Cotton	Jordan, N.C.	Talmadge
Curtis	Lausche	Thurmond
Dirksen	Long, La.	Tower
Dominick	McClellan	Williams, Del.
Eastland	Morton	Young, N. Dak.
Ellender	Mundt	
Ervin	Pearson	

NAYS—51

Aiken	Hart	Moss
Anderson	Inouye	Muskie
Bayh	Jackson	Nelson
Bible	Javits	Neuberger
Brewster	Kennedy, Mass.	Pastore
Burdick	Kennedy, N.Y.	Pell
Byrd, W. Va.	Kuchel	Prouty
Cannon	Magnuson	Proxmire
Case	McCarthy	Randolph
Church	McGee	Ribicoff
Clark	McGovern	Saltonstall
Dodd	McIntyre	Smith
Douglas	Miller	Symington
Fong	Mondale	Tydings
Gore	Monroney	Williams, N.J.
Griffin	Montoya	Yarborough
Harris	Morse	Young, Ohio

NOT VOTING—12

Bartlett	Hayden	Metcalf
Bennett	Jordan, Idaho	Murphy
Gruening	Long, Mo.	Simpson
Hartke	Mansfield	Sparkman

So Mr. HOLLAND's amendment was rejected.

Mr. YARBOROUGH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS—ORDER FOR RECESS UNTIL
10 A.M. TOMORROW

Mr. JAVITS. Mr. President, I yield myself 1 minute on the bill.

I yield myself the time to ask the majority leader as to his desires. I am prepared to lay down the child labor amendment and make it the pending business. I am not prepared to debate it tonight. I should like the majority leader to give us his wishes.

Mr. MANSFIELD. Mr. President, in response to the question of the distinguished senior Senator from New York, there will be no more votes tonight, because I think we are all pretty tired.

However, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock tomorrow morning.

The PRESIDING OFFICER (Mr. BYRD of Virginia in the chair). Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. For the information of the Senate, there will be no morning hour, and at 10 o'clock, at the conclusion of the prayer and the reading of the Journal, we will go directly on the bill and the Javits amendment, which I understand will be the pending business at that time.

Mr. JAVITS. Mr. President, I call up my amendment No. 759 and ask unanimous consent that debate on it may be suspended until tomorrow.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? The Chair hears none, and it is so ordered. The amendment will be stated.

Mr. JAVITS. Mr. President, I ask unanimous consent that the reading of the amendment may be dispensed with but that it be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 759) is as follows:

On page 43, strike out lines 14 through 17 and insert in lieu thereof the following:

"(c) (1) The provisions of section 12 relating to child labor shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

"(A) is employed by his parents, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or on a neighboring farm, as defined by the Secretary of Labor, or

"(B) is fourteen years of age or over, or

"(C) is twelve years of age or over and is employed on a farm to which he commutes daily within twenty-five miles of his permanent residence, and (1) such employment is with the written consent of his parent or person standing in place of his parent, or (ii) his parent or person standing in place of his parent is also employed on the same farm. The Secretary may by regulation pre-

scribe maximum working hours and other conditions for the protection of the health and safety of children employed pursuant to this subparagraph (C)."

INTEREST RATES AND INFLATION

Mr. GORE. Mr. President, one of the most persistently consistent factors contributing to the inflation we are now experiencing is the rise in corporate profits. With variations in depreciation, and other bookkeeping gimmicks, the best measure of corporate well-being is profits plus capital consumption allowances.

In 1960, profits after taxes plus allowances amounted to \$51.6 billion. By 1965, this figure had risen to \$80.8, and is now running at about \$87.2 billion. This represents an increase, over the short span of 5 or 6 years of some 69 percent. It should be noted that a very significant portion of this increase in corporate profits is attributable to tax reduction, investment tax credit and accelerated depreciation.

With corporate health so clearly robust, many questions are being asked about the odd behavior of the stock market.

Many economists think a great many economic decisions are psychologically based. In any event, there is much uncertainty about the future course of the economy and of Government actions affecting the economy.

The indicators of economic health, it should be realized, are mixed. As I have just said, corporate profits and dividends continue to rise sharply. The stock market has recently suffered sharp declines. Total industrial activity continues brisk, but certain segments, notably housing starts and automobile sales, have fallen off badly.

I think it is generally realized that high interest rates cannot really regulate the economy. Reliance upon high and higher interest rates to curb inflation has brought imbalances and inequities.

Everyone is waiting for the President, with the power and prestige of the Office of President, backed up as he is by the wealth of talent in the Council of Economic Advisers, the Treasury Department, various agencies with credit and debt management functions to provide the leadership that is needed and necessary to bring down usurious interest rates. The acuteness of the need for such Presidential leadership is illustrated by the fact that Johnson interest rates are now higher than Hoover rates, higher now than at any time in 45 years.

Time is fast running out for any meaningful action to be taken before Congress adjourns this year. The President had an opportunity yesterday at his news conference to take and to announce his arrival at some hard decisions. He passed. He settled for platitudes, mild admonitions, and an indefinite reference to congressional action. He chose to ignore the Truman maxim, "The buck stops here." But there is yet time for action. Without action both interest rates and the cost of living will further rise, bringing hardship in their wake.

Mr. President, the time is short, but there is yet time to act.

ACHIEVING PEACE IN VIETNAM

Mr. PELL. Mr. President, former Ambassador Anthony B. Akers, an experienced individual in the field of diplomacy and a distinguished and thoughtful man, has developed a memorandum concerning the possibility of achieving a peaceful and generally acceptable solution to the Vietnam problem.

I believe that his memorandum might be of interest not only to our country but to other countries. In any case, I am sure it will interest my colleagues and for this reason I ask unanimous consent to have it printed in the RECORD.

I believe this approach is a worthwhile one and that the Akers proposal should be followed to its logical conclusion. Both as an old friend of Mr. Akers and as an American, I wish him every success in his efforts.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM: PROPOSED COURSE OF ACTION
FOR THE UNITED NATIONS IN RE VIETNAM,
AUGUST 3, 1966

I. PREFATORY COMMENT:

North and South Vietnam combined comprise 127,000 square miles and more than 34 million people supported essentially by a rice-growing economy based on ancient and traditional social systems evolved by a people identifiable 2000 years ago.

In the same year, 1945, that the United Nations was founded, there began in Vietnam the fateful struggle which soon flared into open warfare. Even before that date Vietnam had become a war torn area, occupied by the Japanese in 1940. For more than a quarter century, therefore, the tides of violence in Vietnam have ebbed and flowed across the headlines of the world. Most of the major powers have been involved in either principal or ancillary roles at one time or another. So have several small nations.

Although the struggle in Vietnam has paralleled the life of the United Nations, that body has been neither willing nor seemingly able to influence the course of events there.

From 1945-54 the Vietnamese struggle centered on the issue of colonialism and the political question of self-determination. After the defeat of French military forces at Dienbienphu, the cease-fire and Geneva Accords of 1954 ended colonialism and divided Vietnam into North and South with provisions for subsequent elections. Such elections were not held in either South Vietnam or in North Vietnam.

Since 1954 the struggle, often brutal and cruel in character, has found its focus in South Vietnam between forces vying for control of South Vietnam. Each side has received and is receiving external assistance. More recently the conflict has been brought into North Vietnam, especially through air-bombing.

II. PRINCIPLE OF UNITED NATION'S INTERVENTION

Conciliation is the keynote to successful intervention by the United Nations in the Vietnamese struggle. The United Nations cannot intervene with success if it attempts to deal with charges and counter-charges of "aggression" or attempts to censure or to assess responsibility for the present situation in Viet Nam. It is imperative that the United Nations function strictly as a mediatory framework which looks only forward—toward peaceful solution. If it is to succeed in Viet Nam, the United Nations must adhere strictly to its most basic purpose: serving as an international framework of last resort to which appeal can be made above the intense fervor of political passion and continuing military combat.

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
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HIGHLIGHTS: Sen. McGovern urged increase in food production and "fair" return for farmers. Sen. Tower introduced and discussed bill to allow planting of crops on diverted acreage.

HOUSE

1. TRANSPORTATION. Agreed to conference report on S. 3700, to amend the Urban Mass Transportation Act of 1964. This bill will now be sent to the President.
pp. 20009-11
2. WEATHER. Rep. Mathias spoke on the "need for more and better public information about the important science of weather modification." pp. 20029-30

3. ELECTRIFICATION. Rep. Hathaway spoke in support of the Dickey-Lincoln School hydroelectric power project in Maine. pp. 20033-4
4. FLOOD CONTROL. Received from Army a draft bill to amend section 201 of the Flood Control Act of 1965 to authorize the Secretary of the Army to construct, operate, and maintain water resource development projects costing less than \$10 million; to Public Works Committee. p. 20038
5. LEGISLATIVE PROGRAM. Rep. Boggs announced that on Mon. the House will consider the "Department of Transportation" bill followed by the HemisFair bill, the intermediate credit banks bill, the child nutrition bill, Capitol Visitors Center bill, and the Rio Grande salinity problem bill. p. 20007
6. ADJOURNED until Mon., Aug. 29. p. 20038

SENATE

7. PATENTS. Passed as reported S. 2207, to amend the Trademark Act with respect to appeals in patent and trademark cases. pp. 19881-2
8. ORGANIZATION OF CONGRESS. Passed as reported S. Res. 293, to create a special committee on the Organization of the Congress. pp. 19875-6
9. PACIFIC ISLANDS. Passed as reported S. 3504, to increase authorizations for the operation of the civil government of the Trust Territory of the Pacific Islands. pp. 19994-5

10. LABOR STANDARDS. Passed, 57-17, with amendments H. R. 13712, to increase minimum wages and to extend such coverage to additional employees. Conferees were appointed. House conferees have not yet been appointed. pp. 19892-925, 19927-54

Agreed to the following amendments:

By Sen. Ellender, to provide for an exemption of workers in the sugar industry from overtime provisions of the bill (p. 19912).

By Sen. Prouty, 41-38, to restrict coverage of the bill to those enterprises whose annual gross income of sales or business is not less than \$350,000 (rather than \$250,000 in the bill) (pp. 19923-4).

By Sen. Aiken, to define a "man-day" in agricultural work as one hour (p. 19945).

By Sen. McGee, to exempt from coverage in the bill "hand cultivation" workers paid on a piece rate basis. (pp. 19945).

Rejected the following amendments:

By Sen. Javits, 31 to 51, to prohibit the employment in agriculture of children under the age of 12 except on their family farm or a "neighboring farm", and of children between 12 and 14 except on farms within 25 miles of their homes (pp. 19892-907).

By Sen. Dirksen, 41 to 41, to restrict coverage to those enterprises whose annual gross volume of sales or business is not less than \$500,000 (rather than \$250,000 in the bill) (pp. 19912-8).

By Sen. Miller, 14 to 63, to provide that the minimum wage shall be not less than \$1.40 (\$1 for agricultural workers) for the first year under the bill, and thereafter any increases to be tied to increases in the retail consumer price index. (pp. 19927-8).

By Sen. Prouty, 37 to 37, to define a "man-day" in agricultural work as 4 hours of labor. pp. 19942-4

11. POSTAL RATES. The Post Office and Civil Service Committee reported with amendments H. R. 14904, to revise postal rates on certain fourth-class mail (S. Rept. 1534). p. 19955
12. FORESTRY. Sen. Moss spoke in support of the establishment of a Redwood National Park and expressed concern over "what appears to be a program of 'spite cutting' in the heart of the proposed park." p. 19993
13. SCHOOL MILK. Sen. Proxmire stated that he intended "to upgrade the school milk program by fighting hard for at least an additional \$6 million in a supplemental appropriations bill." p. 19993
14. WORLD HUNGER. Sen. Mondale commended and inserted an article outlining "the root causes of the world hunger problem and the steps which must be taken toward solutions." pp. 19981-4
15. PUBLIC WORKS. Sen. Tower inserted a report of the activities in Texas for the last five years by the Corps of Engineers, the Bureau of Reclamation, Soil Conservation Service and the National Park Service. pp. 19976-8
16. FARM PRICES. Sen. McGovern urged an increase in food production and a reasonable profit to farmers for doing so. pp. 19972-3
17. FOOD FOR PEACE. Began consideration of H. R. 14929, the food for peace bill, and made it the unfinished business. pp. 19995-9
18. LEGISLATIVE PROGRAM. Sen. Mansfield announced that next week following the food for peace bill the Senate will consider the parcel post, Oregon Dunes, elementary and education bills, and possibly the child safety and the HEW appropriation bills. p. 19926
19. ADJOURNED until Mon., Aug. 29. p. 19926

ITEMS IN APPENDIX

20. FOOD PRICES. Sen. Morton inserted a constituent's letter protesting the increase in the price of food. p. A4537
21. ACCOUNTING; FARM PROGRAM. Extension of remarks of Rep. Greigg endorsing "legislation to show that the major share of expenditures by the Department of Agriculture benefit the general public", and inserting two articles on this subject. p. A4542
22. FOREIGN AFFAIRS. Rep. Irwin inserted an article which reports favorably on the President's proposal for the economic integration of Latin America, "A Hemisphere Common Market." p. A4559

- 4 -
BILLS INTRODUCED

23. WATER POLLUTION. S. 3769 by Sen. Mondale, to amend the Federal Water Pollution Control Act in order to authorize comprehensive pilot programs in lake pollution prevention and control; to Public Works Committee. Remarks of author, pp. 19890-2
H. R. 17369 by Rep. Horton, to amend the Federal Water Pollution Control Act in order to improve and make more effective certain programs pursuant to such act; to Public Works Committee. Remarks of author, pp. A4549-51
24. ORGANIZATION. H. R. 17375 by Rep. Reinecke, and H. R. 17380 by Rep. Wydler, to establish a National Commission on Public Management; to Government Operations Committee.
25. ACREAGE ALLOTMENT. S. 3770 by Sen. Tower, to amend the provisions of law relating to the planting of crops on acreage diverted under the cotton, wheat and feed grains program; to Agriculture and Forestry Committee. Remarks of author, p. 19956
26. PERSONNEL. S. 3779 by Sen. Ervin, to protect the employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy; to Judiciary Committee. Remarks of author, pp. 19967-8
27. ELECTRIFICATION. S. J. Res. 189 by Sen. Neuberger, to provide for a study of the impact of overhead electric transmission lines and towers upon scenic assets, zoning and community planning, property values, and real estate revenues; to Commerce Committee. Remarks of author, p. 19968
28. RIVER BASIN. H. R. 17374 by Rep. O'Neill, Mass, to authorize the Secretary of the Interior to conduct a study of the Charles River and its tributaries in Massachusetts; to Interior and Insular Affairs Committee. Remarks of author, pp. 20032-3

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COMMITTEE HEARINGS AUG. 29:

Dept. of Transportation, S. Gov't Operations (exec).
Foreign aid authorizations, conferees (exec).

oOo

Water Pollution Control Act, on behalf of myself, the Senator from North Dakota [Mr. BURDICK], the Senator from Illinois [Mr. DOUGLAS], and the Senator from Wisconsin [Mr. NELSON], and ask unanimous consent that it lie on the desk until Friday next, September 2, 1966, so that Senators who wish to join in co-sponsoring the bill may do so.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, will lie on the desk until Friday next as requested.

The bill (S. 3769) to amend the Federal Water Pollution Control Act in order to authorize comprehensive pilot programs in lake pollution prevention and control, introduced by Mr. MONDALE (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Public Works.

Mr. MONDALE. Mr. President, this bill authorizes the Secretary of Interior to award grants and contracts to State or local agencies for comprehensive pilot programs for the improvement and revitalization of our Nation's lakes through prevention, removal, and control of pollution.

Mr. President, there are thousands of lakes in this country which are decaying and in danger of becoming extinct because of pollution and siltation. My State of Minnesota is known as "The Land of 10,000 Lakes," but this epithet may have to be changed. Before this century ends, there may be many fewer, not only in Minnesota, but all over the country. Like our other natural resources, lakes are not impervious to man's vandalism and natural decay. Throughout the Nation, lakes are suffering from the pollution epidemic; they are smothering to death in organic waste and untreated poisons.

Water is now a precious commodity. In recent years, the Congress has recognized the need to preserve and protect our existing supplies and to develop new sources, such as converted salt water. In the last 10 years, we have taken broad new steps in water pollution control with the enactment of a comprehensive water treatment program in 1956, strengthening amendments in 1961, and last year the Water Quality Act of 1965. This year the Senate has voted to expand these efforts with increased authorizations for sewage treatment plants and for research, including demonstration grants for advanced waste treatment and water purification, with provision for a clean rivers restoration program.

But minimal attention has been given to pollution in lakes.

There is no program of Federal assistance to the States for the full-scale cleaning of polluted lakes, and without assistance the States cannot handle this problem.

Under the Federal Water Pollution Control Act, grants can be made to the States for the construction of sewage treatment facilities which help to prevent further industrial and sewage pollution, but only over the long run does this assist in the gradual improvement

of the water quality by feeding relatively unpolluted water into the lake.

There is only limited Federal assistance available to prevent pollution due to natural causes, such as the accumulation of wind-blown or water-carried silt and sediment, and the consequent growth of weeds and algae. The Department of Agriculture soil conservation program provides technical assistance to landowners in soil erosion control and some financial assistance for conservation on privately owned farm lands.

There is no Federal assistance available to attack the problem by dredging the sludge and harvesting the aquatic growth directly.

It is clear that a congressional mandate is required for a coordinated, single-minded attack to preserve the beauty and value of these precious bodies of water.

In his message on natural beauty, President Johnson said:

We can corrupt and destroy our lands . . . in the name of progress and necessity. Such a course leads to a barren America, bereft of its beauty and shorn of its sustenance.

Lakes are our salvation in the heartland of America. They refresh the landscape and rejuvenate our lives. They are an integral part of community life and economic development. The benefits that flow from them are incalculable.

They are magnets for recreational activity. As our population becomes concentrated in urban areas, the demand for exposure to the relaxed informal activity of outdoor sports increases, and as our population grows, there is a greater need for publicly owned facilities. Our lakes supply this need, with swimming, water skiing, canoeing, sailing and other boating, and fishing. State parks, picnic areas, and camping sites often border a lake, and various other public facilities are closely tied to it. Hiking, bicycling, and horseback trails are attracted to the scenic beauty and tranquility of lake areas. A report by the Outdoor Recreation Resources Review Commission reports that 44 percent of the population prefer water-based recreation activities above any others, and that by the year 2000, swimming will be the most popular single outdoor recreational activity, overtaking driving for pleasure which now holds first place.

Lakes attract many visitors and vacationers, and the provision of services and goods for them has become an essential part of the economy for many communities. Land values in lake vicinities are based on the desirability of proximity to the lake and its facilities. Many lakes are the major source of water supply for the surrounding community. Industry is attracted to the larger lakes because of the accessibility to the water for processing and for transportation.

With the deterioration of lakes, these forms of pleasure and relaxation, and the economic benefits to the community will disappear. Established patterns of living and economic development in lake areas will be needlessly destroyed as sludge, slime, and sewage choke and dis-ease our once crystalline waters. Direct contact with the water, for swimming or

drinking, will become impossible, and then even boating will not be feasible. The contaminated water will kill or disperse fish and other animal life. A once beautiful lake area will become an eyesore. During the summer months, the odors from vegetation, sewage, and rot will prohibit any sort of recreational activity, even on the land surrounding the lake. Mosquitoes and other insects will infest the lake as it gradually becomes a swamp, and the major attraction of the land will become a potential health hazard.

Mr. President, we must not permit this to happen, and to prevent it, we must take action now. There is no doubt that the job is an expensive one, but it will be far cheaper now than 5 or 10 years from now. In fact, for many lakes, a lapse of 5 or 10 years may make their revitalization impossible.

The task, even today, is not an easy one. The problem of "eutrophication," or aging, of lakes occurs when the water becomes overnourished with nitrogen and phosphorus nutrients from inadequately treated waste materials. These elements act as fertilizers of aquatic growth, causing prodigious reproduction or a population explosion of algae bloom. These plants have a self-generating cycle and create an increasing demand on the oxygen in the water, thus killing desirable bacteria which work naturally to cleanse the water. It is almost impossible to remove these microscopic plants from the water.

When compared with lakes, the cure of pollution in rivers and estuaries is not such an acute problem, once the waste material is adequately treated, because the natural flow of the stream or tidal flow is usually strong enough to scour out the sludge and polluted waters. Lakes are basically stagnant bodies of water, and waste materials remain, once they are put in.

The technology for controlling and removing pollution from lakes is far from perfected, and it is scientifically and technically complex. The sources of pollution must first be identified, and there are many. Sewage and industrial waste, accumulation of silt resulting from improper farming practices, deforestation, highway and housing construction and strip mining, runoff and soilwash from agricultural land treated with fertilizers and pesticides, and septic tank discharge are among the possibilities.

Treatment plants, soil erosion control, and enforcement procedures must then be instituted to prevent continuing pollution. A comprehensive land use plan must be developed with biological, hydrographic, and geological surveys to guide State and local action and attract Federal assistance. Actual cleaning requires extensive dredging with large hydraulic pumps which lift the silt and sedimentation from the bottom and edges of the lake. For lakes that are heavily silted, the dredging operation with present technology may take a number of years, as is the case at Albert Lea Lake in Minnesota, a lovely lake where, despite intense local efforts, pollution is gaining ground. Where the lake is so polluted

that weeds such as cattails and bull-rushes have become imbedded, the most successful method of correction is actual harvesting, as one does wheat, to prevent regrowth and fertilization of other organic material such as algae. Chemical sprays can be used to kill aquatic plants, but this is merely a stopgap measure.

The Minnesota Department of Conservation estimates that dredging and cleaning a lake costs a minimum of 25 to 50 cents a yard. To deepen an acre of water by only 1 foot costs about \$4,000. In Minnesota, there are 17 lakes that are over 10,000 acres in size. To deepen one of these lakes by 5 feet would cost about \$4 million. It is obvious that such an expense cannot possibly be borne by a lake community, and even for a major metropolitan area, the cost is virtually prohibitive.

Preliminary research with Federal grants awarded in the last year is now being started at Green Lake in Seattle, Wash., where unpolluted water is being added to the polluted lake water to determine the reduction of nutrients and aquatic growth by means of dilution of the water. At Lake Tahoe on the California-Nevada border experiments are being conducted with activated carbon to achieve a maximum degree of water purification in treatment of effluent. At Shagawa Lake in Minnesota, scientists are evaluating the feasibility of removal of the existing pollution, and at Lake Stone in Michigan a study is being made of the extent of natural recovery from pollution if waste is virtually eliminated from the water.

Mr. President, there are over 100,000 lakes in this country, and many of them are suffering from the effects of pollution. There is a pressing need for extensive experimentation and research on the most feasible and economical tools and systems of cleaning lakes and of controlling the various kinds of pollution. Our current research and corrective measures are not keeping pace with the growth of the problem.

I am proposing that the Secretary of Interior be authorized to award grants or contracts to a State, municipal, or intermunicipal agency not in excess of \$5 million to finance 90 percent of the cost of pilot projects designed to develop new or improved methods or materials for the prevention, removal, and control of pollution and siltation from lakes. I have specified 90 percent Federal financing because this is an experimental program. I envisage that, with the eventual establishment of a broad general program of Federal matching funds for the cleaning of polluted lakes, this amount would be reduced to a 75 percent Federal contribution to conform to the other programs under the Federal Water Pollution Control Act.

The State and community role in these pilot projects should not be overlooked. Our bill specifies that no payments may be made for a project until the Secretary receives assurance that the State or local government will maintain the water purity levels for the lake involved after the termination of the initial project.

Mr. President, it is my hope that with the perfection of the tools and technol-

ogy of restoring lakes the municipalities and communities all over the Nation will be encouraged to begin the task of cleaning their lakes and to take immediate steps to prevent further pollution. There is no lack of interest in such projects in the States. Rather, there is frustration at the enormous size of the job and the realization that, without Federal assistance, most such projects are impossible.

I am proposing that lakes be given treatment comparable to other bodies of water in the protection afforded against pollution. Funds for pilot projects to save the lakes from disintegration and extinction rightfully should be made under the law which is designed to enhance the quality and value of our water resources and to prevent, control, and abate water pollution. I urge my colleagues to join me, Senator BURDICK, Senator DOUGLAS, and Senator NELSON in this bill to rejuvenate and beautify our lakes.

Mr. BURDICK. Mr. President, will the Senator from Minnesota yield?

Mr. MONDALE. I am delighted to yield to the Senator from North Dakota, who has increased my awareness of the importance of this problem, and has worked with me in shaping the proposal which we present to the Senate today.

Mr. BURDICK. I am pleased to join with my able colleague from across the Red River in this very important piece of legislation.

I wonder how many people realize that it was only 90 years ago that General Custer was defeated in the Battle of the Little Big Horn in Montana. What I am trying to convey is the fact that North Dakota, Minnesota, and Wisconsin, is relatively new country, and in the period of less than a century we find pollution taking over the fresh water lakes.

This Nation is engaged upon a new emphasis, to foster recreation throughout the country, through the enactment of the Outdoor Recreation Act. A great deal of recreation is possible because of the many natural lakes in the United States, yet we see the deterioration that is now going on.

If we do not do something to alleviate this situation, these great natural assets of our country will soon be gone.

I have been advised that many areas of the East and the Middle West once had lakes which no longer exist because the process of pollution overtook them, first in the form of weed growth, and then in the next stage, when the fresh water in the lakes becomes boggy, and then the lakes fill up completely.

At this time, I should like to call the Senator's attention to the interest of the community in this problem. The Detroit Lakes region is one of the outstanding recreational areas in Minnesota, which, of course, North Dakota adjoins.

I have received a telegram from George Thompson, M.D., public health office in Fargo, on this subject; and also one from R. C. Lewis, of Fargo, another one of our public-spirited citizens.

I have also received a telegram from the Lakes Melissa and Sallie Improvement Association, R. G. Hall, president, in Fargo, N. Dak.

Mr. President, I ask unanimous con-

sent to have these telegrams printed at this point in the RECORD.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

FARGO, N. DAK.,
August 16, 1966.

Senator QUENTIN BURDICK,
Senate Office Building,
Washington, D.C.:

Billions for man on the moon. Let's find how to preserve a few things that we already have. Mondale-Burdick amendment a must.

ROBERT C. LEWIS, Jr.

FARGO, N. DAK.,
August 16, 1966.

Senator QUENTIN N. BURDICK,
Senate Office Building,
Washington, D.C.:

Please support Mondale-Burdick amendment to public works appropriation. Health and welfare of lakes region is imperative.

GEORGE THOMPSON, M.D.,
Public Health Office, Lake Sallie.

FARGO, N. DAK.,
August 23, 1966.

Senator QUENTIN BURDICK,
U.S. Senate,
Washington, D.C.:

This improvement association was formed in 1933 to promote projects designed to improve the weed and algae conditions of our two 1600 acre lakes so the public could be better served by this fine recreational area.

Our records show that since that time members of our group have spent in excess of \$60,010 attempting to accomplish our goals but unfortunately our lakes continue to fill up with noxious weeds and algae making them virtually unusable—often when deserving families have scheduled vacations. We have hoped for sometime that public moneys would be made available to make of our lakes a "Pilot" project which we hope could lead the way to improvement for almost every inland lake throughout our country having similar problems.

Now Senators MONDALE, Minnesota, and BURDICK, North Dakota, have introduced an amendment to the rivers and harbors act asking for this very thing. We endorse heartily their amendment and hope you will support this needed legislation when you have the opportunity to do so.

LAKE MELISSA AND SALLIE
IMPROVEMENT ASSOCIATION,
R. G. HALL, President.

Mr. MONDALE. I thank the Senator from North Dakota for his leadership in this field and for reminding the Senate of the great interest that exists in Minnesota, North Dakota, and I believe throughout the Nation, in a program such as we advocate, one which is long overdue, to save lakes that are dying from an overabundance of organic waste and untreated poisons.

FAIR LABOR STANDARDS AMENDMENTS OF 1966

The Senate resumed the consideration of the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

Mr. MANSFIELD. Mr. President, what is the pending question?

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the amendment (No. 759) of the Senator from New York [Mr. JAVITS].

Mr. MANSFIELD. We will stick to that amendment from now on until action is completed on it. Pending the arrival of the Senator from New York, who is in a committee meeting, I suggest the absence of a quorum, the time to be taken from the time on the bill.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. MANSFIELD. How much time is left on the bill itself, and how is it allocated?

The ACTING PRESIDENT pro tempore. One hundred and forty-one minutes remain for the proponents and 233 minutes for the opponents, excepting the time for the quorum calls.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, the time to be taken from the bill—

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. JAVITS. Is the time divided between the opponents and proponents, or is it divided between the majority and the minority leaders?

The ACTING PRESIDENT pro tempore. Between the majority and minority leaders.

Mr. JAVITS. I thank the Chair. I would suggest that we keep that distinction clear. I do not consider the Republican side as opposing the bill. Therefore, I think it is much more accurate to describe the time as being divided between the majority and minority leaders.

Mr. MANSFIELD. If the Senator will yield, I think the Chair had in mind the proponents of the amendment and opponents of the amendment in the dividing of time.

Mr. JAVITS. With all respect, I think the Chair was talking about the time on the bill.

Mr. MANSFIELD. That is correct.

Mr. JAVITS. We had that confusion yesterday. I think it should be dispelled.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, to be taken out of the time on the bill on the part of the proponents.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CHILD LABOR IN AGRICULTURE

Mr. JAVITS. Mr. President, I yield myself 15 minutes.

The amendment which is before us now is the so-called child labor amendment, which I offer on behalf of myself, the

Senator from New Jersey [Mr. WILLIAMS], and the Senator from California [Mr. KUCHEL]. It is occasioned by the fact that there is a child labor provision in the Fair Labor Standards Act which relates to nonfarm occupations; but there is no provision—other than the fact that children may not, even in agriculture, work during school hours—relating to agriculture, even after we pass this bill, unless we put it in. None came over from the other body. So we approach the matter as one of first impression here.

Mr. President, the amendment would, in brief, provide the following:

It would prohibit the employment in agriculture of children under the age of 12, except on their family farm or on a "neighboring farm," as defined by the Secretary of Labor.

It would bar agricultural employment of children between 12 and 14, except on farms within commuting distance of their homes—which is described as 25 miles—and then only with parental consent.

The third element of the problem of dealing with children in agriculture is already dealt with by the bill, because the opponents of my amendment were themselves cognizant of the need for acting on that; so they retained one element of my original amendment which is that children under 16 shall not be permitted to work in occupations defined as "particularly hazardous" by regulations of the Secretary of Labor.

Mr. President, this question must be decided very sharply as to two very different groups of children. There has been a considerable amount of confusion on this subject, even in committee. I think it is time to make the matter very clear.

There are, first, those children who are really ground down in commercial agriculture—and I use every one of those words advisedly. There are the children of migrant workers, who work out in the fields with their parents, who work under conditions where the question of school hours is largely academic, either by virtue of inadequate school facilities where they are located, or carelessness in enforcing school attendance laws, or convenient "crop vacations" which are arranged on a municipal level to accommodate the situation of children working in the fields, or simply nonenforcement of the law, which is probably the most prevalent condition of all.

I think the revelations in the testimony before the Senate Migratory Labor Subcommittee, under the able chairmanship of the Senator from New Jersey [Mr. WILLIAMS], certainly show and represent a really shocking callousness to the future of those of our children who happen to be unfortunate enough to be born in this economic framework of being the children of migrant workers. The number of migrant workers is variously estimated. It is almost impossible to come by an exact figure. Estimates range anywhere from 100,000 to 400,000, I suppose varying with the seasons of the year, occasional opportunities, and so on; and the number of children involved, therefore, varies considerably. That is one part of the problem.

The other part of the problem which complicates the issue is casual employment of children in agriculture, which is glamorized into being a good, healthy occupation to keep them busy and let them earn a little money, but which becomes pretty good commercial business, Mr. President.

For example, in the Willamette and Tualatin Valleys, and the Hood River area in the heart of the Oregon strawberry area, at the peak of the harvest season in 1962, 66,000 workers were employed, according to recent surveys, and of these, 65 percent are under the age of 14, and 19 percent under the age of 12. In other sections of the country, such seasonal employment of children is more sporadic, but in some parts of the country this child labor proposition is big and important business.

Those are the two issues, Mr. President, the two problems.

I believe that the economy of the country is not so bereft of ability to help itself that the work of children is absolutely indispensable to the gathering of our crops. There are very deep questions of health, of education, and of morality involved; and I felt, with Senator WILLIAMS of New Jersey that it was our duty to lay the issue before the Senate in a very pronounced way, in view of the fact that we were on the committee, and very well acquainted with what has occurred there.

Mr. President, the Senate has already, on two previous occasions, when it had the opportunity to do so, passed legislation substantially along the lines of this amendment, in order to deal with child labor in agriculture. But the House of Representatives has never concurred. Now the opportunity is presented again, in a very real form. The bills to which I refer were passed in 1961 and 1963. Now the situation is before us in connection with putting a major section of agricultural labor, especially on the so-called commercial type farms, under the Fair Labor Standards Act. To face the problem squarely, in the judgment of Senator WILLIAMS, Senator KUCHEL and myself, we should include, together with the provisions for an agricultural minimum wage, provisions bearing upon agricultural child labor.

In fact, the committee report itself recognizes that a great deal more must be done, for it states, on page 10, that the committee "does intend to study further the employment of children in agriculture to determine what further protection is needed."

But there simply is no need for further study. Far from it—for we are fast approaching the point where the poverty-stricken and oppressed migrant farmworkers of this country will no longer accept "another study."

Arthur Goldberg testified in 1963, when he was Secretary of Labor:

We have had enough studies of the problem of migratory labor in this country. At least we have had enough studies with respect to the matters which are the subject of legislation being considered by this committee.

And the Secretary specifically endorsed this very same child labor proposal as "long overdue."

I would also remind the Senator from Texas that, in his home State, there is also growing a strong feeling that this legislation has already had more than its share of hearings and studies. If the Senator will turn to page 829 of the migratory labor hearings which are on the desk of every Senator in this Chamber, he will find the statement of the Reverend Sherrill Smith, head of the social action department for the archdiocese of San Antonio, Tex., who, like Arthur Goldberg, has had his fill of studies and piling evidence upon evidence.

Reverend Smith says:

I think all the evidence is in, by now, I would think that by now all the evidence and the facts and the figures and the pictures of poverty and the pictures of workers and the pictures of the whole structure are in the hands of those people like yourselves who can do something about it.

And Reverend Smith goes on to ask:

And will anyone answer me: Is this the kind of thing that will mature youngsters, wandering up and down the land? Does this mature youngsters?

Almost plaintively—almost in exasperation—Reverend Smith of Texas tells us:

You've heard "jillions" of words about this thing; and my bookshelf is filled with the books that you put out of all the testimony; it's getting fatter and fatter and fatter.

Mr. President, of course, the clear implication is that nothing happened.

Mr. President, the excuse contained in the committee report—that we need a further study—should not mislead anyone. This issue has been studied to exhaustions. When we vote on this amendment, we are voting on the merits—for the merits are there for all to see. And no Senator should think for a moment that he will ever be able to justify a "no" vote on this amendment on the ground that the matter needs more study, for there is nothing left to study—the facts are all in the record, over and over again.

What are the facts of child labor? It is an old story—for, long before the country became incensed about the abuses inherent in agricultural child labor, industrial child labor became such a national scandal that, almost two generations ago, we finally outlawed it. But the pitiful conditions of child labor in the textile mills and factories at the turn of the century are unhappily perpetuated among migrant farm children today. Let me read an excerpt from the testimony of Miss Stockburger, chairman of the National Child Labor Committee, testifying in 1963 about her most recent trip to a migrant area:

When Don came to the school at 1 p.m., he had already worked in the fields from about 4:30 a.m. to 12:30. I asked how many beans he had picked. He replied, "\$6 worth—that's 300 pounds." Then my comment was "Then you must be hungry. Come on, let's go eat lunch." Don looked up at me and answered, "Yes'm, I reckon as how I am. I ain't had no breakfast yet."

Then there was the 9-year-old girl who was found one hot July afternoon in a cabin ironing. In the course of the conversation she told of having been in the field all morning. When asked how she liked to work in the field she paused in her slow and deliberate strokes with the iron and with great vehemence said, "I hate it. I hate to pick beans. But I gotta earn my living."

How vividly I recall our dismay when a young mother of five children, all under 6, with whom we had worked for several years brought only her three youngest to the day care center. When asked about the two oldest boys who were 5 and 6, her answer was, "Oh, Billy and Johnny, I won't be leaving them with you this year. They're old enough to pick."

The restriction, adopted by the committee, against agricultural child labor in "particularly hazardous" occupations is important—but it will never prevent the kind of thing Miss Stockburger tells us about—and that kind of thing is much more prevalent than the "particularly hazardous" situation.

Nor will the current restriction on employment of children during school hours suffice—even to protect the educational opportunities of farm-working children. For a combination of factors, including loose enforcement, particularly as to migrants, plus such practices as "crop vacations", has resulted in a very substantial impairment of farmworker education. For example, Secretary Wirtz, testifying last year—and this will be found on page 37 of the migratory labor hearings on the desks of Senators—I said:

The degree of difficulty in this situation is, even under the school regulations which we have, investigations which have been made by the Wage and Hour Divisions of the Department of Labor last year covering 2,562 farms disclosed that 7,972 minors under 16 illegally were employed during school hours.

Twenty percent of that group, 1,578, were 9 years or younger. More than half, over 4,000, were 10 to 13 years of age.

The implications for the health of migrant children, moreover, reach far beyond the "particularly hazardous" occupations. For example, Dr. Bruce Jessup, a consultant for the California Department of Public Health, testified before the Migratory Labor Subcommittee in 1961:

The health department can very well put a sign on the door and say, "Anybody that comes in between 9 a.m. and 4 p.m. to this building in town can get immunization for their kids."

But who is kidding who, Senator Williams? These people are out in the boondocks; that is where they are. They have no transportation. They are working all day, until 6 or 7 o'clock at night. They haven't been taught the advantages of having immunizations.

So in our study in 3 counties, and we did personal health histories on about 1200 in 3 different parts of California, we did not find 10 percent of the children who had adequate immunizations.

We saw dozens of children who did not have any vaccination against smallpox. We saw one boy in one county hospital that was in there for a month and a half with tetanus.

Mr. President, this is not a radical proposal. Secretary Wirtz has quite properly characterized it—and you will find his remarks on page 37 of the migratory labor hearings on your desk—as a "modest proposal"—and it is modest, for it is much less stringent than the restrictions on industrial child labor which have been on the books for two generations.

This amendment would allow children between the ages of 12 and 14 to work on family farms and on neighboring farms and would allow them to travel as much

as 25 miles to work on a farm in the general area in which they live.

This proposal has passed the Senate twice already—as S. 1123 in the 87th Congress in 1961, and as S. 523 in the 88th Congress in 1963.

This proposal has the endorsement of a vast cross-section of interested persons—including many of the growers who will be most directly affected. If we turn to page 231 of the Migratory Labor Hearings on your desk, we will see that this proposal is endorsed by the Vegetable Growers Association of America as "a very good bill." This association represents 40 subsidiary associations of vegetable growers in 32 States.

Or, turn to page 141 and we will see that the National Council of Agricultural Employers—with membership in 35 States, including individual growers and employer associations—is not opposed to this proposal, despite the fact that this organization is opposed to the minimum wage proposal for agriculture.

It is a mystery to me, therefore, why those Senators who seek to represent the interests of agricultural employers have even considered opposing this amendment. In whose behalf are they acting? The growers are not opposing this amendment, and surely the children are not opposed.

I ask my colleagues: What is the source of this opposition?

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield myself 3 additional minutes.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for 3 additional minutes.

Mr. JAVITS. Mr. President, I call to the attention of my colleagues—and especially of the Senator from Florida [Mr. HOLLAND], who yesterday submitted an amendment to strike the agricultural minimum wage coverage from the bill—the statement of the Florida Fruit and Vegetable Association. This statement appears on page 271 of the migratory labor hearings.

The Florida Fruit and Vegetable Association is an association whose members "produce and ship the majority of the fresh vegetables, tropical fruits, and citrus, and approximately 50 percent of the sugarcane raised in Florida." And this association says it "wholeheartedly supports" this proposal.

Mr. President, even in the agricultural fields, this child labor amendment has support in law. The Sugar Act contains a strict prohibition on the employment of children under 14 years of age.

It seems to me that this certainly would indicate the attitude and disposition of Congress toward this proposition. So, I hope the Senate will not now turn down a proposal that it has passed twice before. This time we really have a chance to pass the amendment and get it enacted into law.

Surely, we ought not, at this point, to look away and avert our gaze from the exploitation of children in agriculture at the very time when we propose to extend Federal minimum wage protection to other deprived groups in our society.

Surely, we ought not to allow ourselves to be distracted by euphoric stories about children gamboling in the fields when those who understand this problem even better than I, know of the grinding work which is involved in picking so many of these products. The children of migrant workers are among the most oppressed and depressed in our country, with no ability to help themselves unless we help them by this amendment.

Can it really be said that these children need protection less than garage mechanics, bus drivers, or retail salesmen—for all of whom we make special provision in this bill?

Can it really be said that a 10-year-old child working for hours in the fields harvesting the food we eat is any the less exploited than the children were 50 years ago working in the mills manufacturing the clothes we wore?

The evil in child labor is not merely that children may be injured in particularly hazardous occupations. Rather, it is that strenuous physical labor, on a regular full-time basis, is inherently oppressive for young children not yet even in their teens.

Let us remember, Mr. President, that we are talking about children under 12. I have a child under 12, as do many other Senators, and I am shriveled in my soul to think of her working in the fields picking anything for any reason—except flowers. It could not possibly do her any good.

In agriculture—as in industry long ago—child labor is the same old practice, perhaps less noticed but just as harmful, and we ought to put an end to it once and for all.

Mr. INOUE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 1 additional minute, to yield to the Senator from Hawaii.

Mr. INOUE. Mr. President, I should like to join the senior Senator from New York and commend him for his fine presentation.

Many years ago, when my father arrived in the United States, he was required to work in the cane fields from the age of 6 until 14, and he decided to go to school when he became 14.

Looking back at those days, I could rationalize by saying to myself that possibly men of industry were not too enlightened at that stage in our development. But I would hope that in the year 1966, labor, management, and the Members of the Senate are sufficiently enlightened to at least protect those young people below the age of 12.

Mr. JAVITS. I thank my colleague.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself 5 additional minutes.

Mr. President, as I listened to the Senator from Hawaii, it made me chill a little bit. People see us nicely dressed, and we get big salaries, as these things go—though we get nothing out of our salaries—and we are important people, they do not realize that under these fine suits beat the hearts of human beings who know these things personally, as the

Senator from Hawaii knows and as I know.

Speaking of trade unionism, my father carried a sewing machine on his back from factory to factory, and had the privilege of nearly starving to death for 8 months of the year, out of season; and when he sought to unionize, he had his skull opened.

We understand these things, and the country ought to know that. I cannot tell the Senator from Hawaii how much moved I am by what he has just said about his own life.

I am not saying that the Senators who might oppose this amendment have had any different experience. But I think the country ought to know that we feel and we understand. We are not just automatons who stand up and speak, without a lifetime of experience and personal knowledge of many different things.

I am grateful to my colleague.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. PASTORE. I am deeply moved by the very human testimony of the Senator from New York [Mr. JAVITS] and the Senator from Hawaii [Mr. INOUE]. No one can speak with greater authority on this subject than the senior Senator from Rhode Island, and no one speaks with greater sincerity. As I look back on my own youth, I have worked almost from the day I was able to walk. I worked because I had to work. My mother was left a widow with 5 children when I was only 8 years old. There were mouths to be fed. There was a roof to be kept over our heads. We were poor—but we were proud—and independent. We were on our own—and we worked our way—earnestly—honestly. Those were hard days.

Those were the dark days. That was before social security; that was before unemployment compensation. Those were desperate days when one either went to work or had to do something that affronts the dignity of man—that is, accept charity.

But today we are living in a different era, an enlightened—a responsible era. I think it is an evil, despicable reflection on the affluence of American society when we have to call upon a young boy or a young girl 10 years old to till the soil or to pick a crop—to fill our table to overflowing.

This is a new era. We like to boast about the affluence of America and the progress we have made over these years. We should look into our hearts and our consciences if we permit children to be deprived of their childhood. Do not make serfs of them.

Simply because these children may not be native Americans, or because they happen to have Mexican fathers or mothers, or because some people may think they do not have the proper color of skin. We cannot abuse them and get away with it on the ground that we are dealing with a different stripe of humanity.

That is not consistent with our character as Americans—that is an insult to our sense of human dignity.

I am for this amendment because I

see no harm coming from it—only help—and hope.

What we are saying is that in this year of 1966—in this era of the unequaled affluence of American society—we should not fasten the yoke of this hard labor on young children—who deserve a better chance and a happier choice.

Mr. JAVITS. I thank my colleague, the Senator from Rhode Island, who is always so eloquent and has such deep feeling upon subjects which move him, as I know this one does.

Mr. President, I yield 10 minutes to the Senator from New Jersey.

Mr. WILLIAMS of New Jersey. I think that there is confusion here. We have continually heard that farmwork is both healthful and educational. One witness testified before the Migratory Labor Subcommittee that farmwork teaches young people money management.

Work on a farm can be healthful and educational.

I remember, as a youngster of 7, 8, or 9, working on my uncle's farm in Vermontville, N.Y.

I wonder whether Senator JAVITS has ever heard of Vermontville.

Mr. JAVITS. I had better say that I have.

Mr. WILLIAMS of New Jersey. It is near Bloomingdale, which has a population of about 600 people. It is near Saranac Lake.

I was disturbed, indeed, when my uncle did not wake me up at 6 o'clock to go out into the pasture and bring in the cows. He milked them; I did not. But this was educational; it was healthful; I enjoyed it.

There are many opportunities on the farm for children to learn and to have a healthy life on the farm. And we would not do anything to prevent this practice.

Mr. JAVITS. The Senator is correct.

Mr. WILLIAMS of New Jersey. The family farm, the neighborhood farm, and the children who commute within 25 miles from home—are not covered by this amendment. With this amendment we only protect youngsters from the grueling, grinding, back-breaking work on corporate farms, away from home.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. WILLIAMS of New Jersey. I yield.

Mr. PASTORE. The Senator from New Jersey states the case well—but we are doing even a little better than that. We are dispelling the notion that a Mexican father can be hired because he has two or three young children at his bidding—youngsters who will get down on their knees to help pick the crops and bend their backs through the long, hard day.

Mr. WILLIAMS of New Jersey. The Senator is absolutely correct.

Mr. PASTORE. In other words, we propose to take the attractiveness out of the exploitation of misery. That is what would be done by this amendment. Many Mexican fathers and mothers are being hired today because they have a large family of young children who will work next to them on their knees, tilling the soil and picking crops. That hard-

ship on the young is what we are trying to eliminate—not the care-free chores on the family farm.

What the Senator from New Jersey was doing as a boy, he was doing for "kicks" and not from necessity. That was good. I want every youngster to enjoy his "kicks." If he wants to bring in the cows because he wants to bring in the cows, and not because his life and living depend on it, let him do it. But when a man is hired because he has three or four young children who can get on their knees next to him and pick strawberries, pick tomatoes, or pick peppers, that is something else again. That is exploitation in a way that is inimical; to the well-being of the child—and an insult to the affluence of America.

To eliminate that is the purpose of the amendment, and that is the reason why I support it.

Mr. WILLIAMS of New Jersey. Mr. President, I supported the Senator from Rhode Island [Mr. PASTORE] as the national spokesman for the Democratic Party, as the keynoter of the Democratic Convention because I knew he could say things far better than I could ever hope to say them.

Congress has created programs for education, day care, and recreation. But when youngsters till the soil, and I mean those whom we are now describing, are permitted to work in the fields, they lose their opportunities for education, day care, and recreation. They ought to have these benefits, because without them are truly third-class citizens.

Twenty-five thousand children are presently participating in the programs which have been passed by the Senate and which have been accepted by the House. These programs provide an opportunity for advancement for our farmworkers' children who have, over the decades, been left out of the benefits provided for the rest of our Nation's youth.

HARMFUL CHILD LABOR SHOULD BE PROHIBITED
IN AGRICULTURE

Over 5 years ago, in 1961, and again in 1963, this body passed legislation restricting harmful child labor in agriculture. Unfortunately, on both occasions the House of Representatives failed to act. We once again have before us a similar proposal.

This amendment to the Fair Labor Standards Act, which I wholeheartedly support, would:

First, prohibit the employment of children in agriculture under the age of 12 except for those employed on their family farm or on a neighboring farm; and

Second, bar agricultural employment of children between 12 and 14 except on farms within daily commuting distance of their homes.

Child labor measures similar to this were passed by the Senate in the 87th and 88th Congresses.

This legislation has a twofold purpose—to preserve the beneficial aspects of farm labor for the child while at the same time providing for extensive safeguards against harmful child labor.

The unique nature of agriculture and the problems involved as compared to those of industrial labor have been fully

recognized. The amendment now before the Senate allows children over 14 years of age to work without restriction in contrast to the industrial child labor law which has a 16-year minimum. Under the industrial child labor law, children between 14 and 16 can work outside of school hours only under certain conditions prescribed by the Department of Labor. By permitting children 14 and above to work in agriculture outside of school hours without regulatory restrictions this amendment fully recognizes the beneficial aspects of farm labor for the older child.

Under this amendment, a child 12 years of age or older may work on any farm within daily commuting distance of his permanent residence with the written consent of his parent. This is in sharp contrast to the industrial child labor law which has no comparable provision.

In addition, children of any age are permitted to work on neighboring farms. Here again no similar principle is contained in the industrial child labor law.

The provisions of this amendment brings to us a sound and complete solution of the need to preserve beneficial farmwork. By allowing children 12 years of age or over to work with parental consent within daily commuting distance of their homes and by allowing children of any age to work on neighboring farms we are preserving the beneficial work programs for local schoolchildren which exist in many rural areas of the Nation. Four-H Clubs, Future Farmers of America, and other similar groups are not affected by this amendment. These activities are not defined as farm labor within the meaning of this legislation.

NEED FOR LEGISLATION—UNLIMITED CHILD LABOR
ENDANGERS SAFETY, HEALTH, AND WELFARE OF
LARGE NUMBERS OF CHILDREN

The harmful employment of children in agriculture is one of the most unfortunate aspects of our present farm labor situation. Today a child of any age when school is not in session may be employed in farmwork under any conditions and for any duration. This condition has all but disappeared from industry. Yet, today approximately 365,000 children between 10 and 13 years of age perform hired farmwork.

The Fair Labor Standards Act was enacted long before farming became a large-scale, mechanized operation. Whatever reason may have existed then for a child labor exemption does not exist today. Any rationale for the continuation of this exemption exists more in the nostalgic memories of adults who have worked on their own family farms than in the day-to-day work on a modern farm.

State child labor laws are neither adequate nor extensive enough to protect children employed in agriculture. Only 10 States have laws regulating child labor outside of school hours. Twenty States have no minimum age for the employment of children in agriculture either during or outside of school hours.

The extensive employment of young children in agriculture has persisted despite the fact that agriculture is exceeded

only by the extractive and constructive industries in the rate of deaths caused by accidents. Of the 14,200 persons killed in work accidents in 1963, one-fourth, or 3,300, were employed in farmwork. Of the 20 States reporting injuries to minors during 1964, 1,400 were to children under 18 employed in agriculture.

The California Department of Industrial Relations reports that each year 500 children of school age in California suffer lost school time due to farm injuries. More than half are under 16.

Migratory children, who comprise a significant segment of the children employed in agriculture, are the most seriously affected by the absence of a meaningful child labor law. The most common reason for their employment is the low wages paid to the family breadwinner which are not sufficient to meet minimum family expenses. Consequently, every available child works.

A meaningful child labor law is needed to interrupt this pattern which forces young children into the fields to augment their scanty family earnings. Even more ironic is the fact that child labor does not solve the family low-income problem. The employment of children in agriculture—a source of cheap labor—in the long run depresses the general wage level. For example, in the minimum wage bill currently being considered children under 16 who accompany their parents to the field and are paid on a piece-rate are exempt from coverage.

Unlimited arduous farmwork is also harmful to the health of young children. Dr. Hanson, late head of Columbia University's School of Public Health, said "children in industry, whether indoors or out, show exaggerated form damage to growth."

As early as 1951, a subcommittee of the AMA urged that a general 14-year-age minimum be set for employment. According to Dr. Charles Hendee Smith, professor of clinical diseases of children, College of Physicians and Surgeons, Columbia University, long hours of tiring work—as in factories or in beet or cotton fields—result in chronic fatigue, which is harmful to children in two ways:

First, a child, early in life, must grow and gain weight. Agricultural labor such as the thinning, pulling, and topping of beets, the picking of strawberries and cotton, and so forth, require constant bending or stooping and, frequently, lifting. This excessive muscular activity expends the child's energy which should be used in the natural process of growth. Consequently, children who engage in such arduous labor become undernourished and undersized.

Second, chronic fatigue lowers a child's resistance to disease. Infections, which are everywhere lying in wait for the growing child, find an easy victim in those who are overfatigued and undernourished.

Richard A. Bolt, M.D., assistant professor of child hygiene, University of California, has noted how monotonous and fatiguing work, and the constant shifting of employment, tend to disintegrate the child's personality and lead eventually to delinquency, dependency or an ineffective and purposeless life.

Today we are attempting to break the chain of circumstances which force our Nation's migrant children into the same unrewarding work in life shared by their parents. If these children can be saved from working permanently in the fields a large step will have been taken to give them an opportunity for a more worthwhile and productive adult working life.

UNLIMITED CHILD LABOR INTERFERES WITH EDUCATIONAL GROWTH AND DEVELOPMENT

Agricultural labor is detrimental to children when it interferes with their educational progress. And such interference self-evidently occurs when children of tender years are compelled to work in the fields in the afternoons, during the regular school term, rather than engaging in recreational or study activities characteristic of a normal educational experience. But worse still, migrant children, already seriously behind their proper grade level because of the transient nature of their lives are deprived of the opportunity to attend the summer school programs which have been established for them under the Office of Economic Opportunity. These summer programs will soon be markedly increased by the participation of the Office of Health, Education, and Welfare.

If the migrant child's educational deficiencies are ever to be overcome, the summer school session—which we have found often constitutes the most valuable educational experience of his entire year—must be encouraged to the maximum. It is strange wisdom indeed that has the Nation providing relatively large sums of the taxpayer's money—\$5 million last year—for migrant educational programs, on the one hand; and allows national policy premised on the economic value of the child, on the other hand, to keep the child in the fields, away from the school, thereby aborting any possible return on our educational investment.

In many States school attendance laws permit children under 16, or even under 14, to be excused from school to work in the fields. In some States migratory children—not being residents—are not covered by compulsory school attendance laws. These exemptions in many cases create a serious interference with a child's education and particularly with the education of the migrant child.

For example, only one of three farm wage workers have completed more than 8 years of schooling and only 1 in 6 have graduated from high school. One-fourth of our farmworkers have either never attended or have not completed more than 4 years of schooling.

A Colorado study of migrant children in public schools during the 1964–65 school year found that of the over 1,000 children tested less than 25 percent had achievement in reading and arithmetic in proper relation to their school grade level. The average retardation level was 1.62 years in reading and 1.5 years in arithmetic. I now ask unanimous consent that this study be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

Statistics on migrant children in Colorado public schools during 1964–65 school year

Age	Normal grade	Number of children	Where teachers could estimate achievement					
			Reading			Arithmetic		
			Number	Average retardation (years)	Percent on normal grade	Number	Average retardation (years)	Percent on normal grade
5	K	13						
6	1	83	52	0.23	75	53	0.21	78
7	2	130	85	.69	33	90	.63	39
8	3	123	96	1.12	21	93	1.03	23
9	4	127	100	1.59	19	101	1.49	19
10	5	122	101	1.53	30	98	1.44	29
11	6	104	87	2.04	11	86	1.79	14
12	7	113	83	2.59	7	82	2.48	7
13	8	66	41	2.56	5	41	2.37	5
14	9	68	29	2.69	14	29	2.66	14
15	10	42	13	2.85	8	12	2.50	8
16	11	30	3	4.30	0	3	4.30	0
17	12	11						
18	+	2						
19	+	1						
Unknown		31						
Total		1,066	690	1.62	23	687	1.50	25

Other information on the 1,066 migrant children

Days' membership in Colorado schools	42,478
Days' attendance in Colorado schools	39,183
Percent membership days absent	7.8
Average days' attendance per child	36.8

Home base locations

	Number	Percent
Texas	586	55
Colorado	330	31
Other States	60	6
Mexico	3	
Unknown	87	8
Total	1,066	100

Source: Colorado State Department of Education.

Mr. WILLIAMS of New Jersey. Mr. President, children who work after school hours return from the fields tired and worn out to cramped, poorly lighted housing and often find themselves unable to study. Local school officials, moreover, have been discouraged from assigning homework because of after school harvesting. These conditions obviously impose severe limitations on the educational development of our rural youth, especially the migrant who is already burdened by environmental factors and who seldom obtains an education beyond the fourth grade.

Under present law, there is great inducement for children to work even during school hours. Secretary of Labor W. Willard Wirtz, testifying before the Migratory Labor Subcommittee in 1965, reported:

The degree of difficulty in this situation is, even under the school regulations which we have, investigations which have been made by the Wage and Hour Divisions of the Department of Labor last year covering 2,562 farms disclosed that 7,972 minors under 16 illegally were employed during school hours. "Twenty per cent of that group, 1,578, were 9 years or younger. More than half, over 4,000, were 10 to 13 years of age.

In a recent 10-part radio series entitled "The Migrant March," which depicted the living and working conditions of migrant farm workers, Malcolm Poin-dexter, news editor of Radio Station KYW, Philadelphia, Pa., reported:

In the burning fields of Delaware Valley farms, I saw them working at a very young age. The farmers were quick to quote the law which allows them to work in the fields at any occupation and for any number of hours. That is as long as school is not in session. Even with legislation, farmers and parents openly skirt the law. A recent survey, for instance, showed that more than 6,000 children were found working during school hours in violation of the Fair Labor Standards Act. More than half of them were ten to thirteen years old, and 20 per cent were under nine. Another 51 per cent were retarded in school grade.

During the present session of Congress, Senator MORSE introduce a bill, S. 3046, to strengthen and improve programs of assistance for our elementary and secondary schools. This bill, which is currently pending before the Senate Committee on Labor and Public Welfare, will, when enacted, increase the educational opportunities available to migrant children by permitting payments to State educational agencies for establishing programs especially suited to the migrant's needs.

In addition, during the past year the Office of Economic Opportunity has initiated 25 different migrant day-care programs for preschool and young school age children. Last year these programs served approximately 25,000 children meeting one of the most pressing needs of the migrant family—the care of young children while the parent is at work in the fields.

Enactment of child labor legislation will be a valuable adjunct to Federal, State, local, and voluntary efforts to implement this legislation.

CONCLUSION

The elimination of harmful child labor in agriculture is long overdue. This need has been recognized by this body on two previous occasions when it enacted legislation similar to this amendment in 1961 and again in 1963.

We are now called upon to act for a third time. I hope that today we will act as we have in the past—with compassion and wisdom. As Secretary of Labor Wirtz stated before the Migratory Labor Subcommittee during the first session of this Congress:

The hiring out of the children in this country, particularly the group under 14 years of age, especially the 10- to 13-year olds, although there are a lot younger ones working in agriculture today, violates everything that I understand this country to stand for. There is no excuse for it and it ought to be prohibited.

I think the only reason that it happens is because the country doesn't know it happens, doesn't believe it happens. But it does, and the reports of its are pretty incriminating.

Mr. JAVITS. Mr. President, I yield myself 1 minute so that I may read something to the Senator from Rhode Island [Mr. PASTORE]. The Senator from Rhode Island moved me so deeply, that I want him to hear this quotation from the section of the bill dealing with wages. This is a law which we are asked to pass. Page 42, lines 3 to 7 read as follows, and this is the exemption from the minimum wage: "(i) is 16 years of age or under and is employed as a hand harvest laborer, is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been paid on a piece-rate basis in the region of employment; (ii) is employed on"—

Can the Senator think of anything more callous? That is what we are saying about kids who are under the age of 16. They are exempt from the minimum wage if they get piece rates at the going rate. We are trying to prevent that from happening to those who are under ages 12 and 14.

That is the heart of this amendment.

Mr. WILLIAMS of New Jersey. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. WILLIAMS of New Jersey. Mr. President, there is one point which I forgot to mention. The senior Senator from New York mentioned that in 1963 the Senate passed a bill that is essentially the same as this amendment. It did not pass the House.

I think I have a responsibility, because I was the sponsor of that bill, to again reiterate my gratitude to one of the great Senators in the entire history of the Republic, Senator HARRY BYRD, of Virginia, who worked with me and

counseled with me, and together we brought that measure to the floor of the Senate. The senior Senator from Florida supported it also.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I reserve the remainder of my time.

Mr. MORSE. I yield myself 10 minutes.

The PRESIDING OFFICER (Mr. RUSSELL of South Carolina in the chair). On the bill?

Mr. YARBOROUGH. Mr. President, the senior Senator from Oregon [Mr. MORSE] is designated as the person in charge of the opposite view of the Senator from New York [Mr. JAVITS], and is designated as the person to control time on this amendment.

Mr. MORSE. Mr. President, the Javits amendment was debated and debated in committee. I do not know how many times we voted on it—2 or 3; up the mountain and down—and ended up with the language of the bill, which I rise to say I think is a very fair solution and settlement of this issue.

I shall read the controlling paragraph on page 10 of the committee report:

The committee adopted the amendment described in subparagraph (3) after thorough consideration of the effect of agricultural coverage generally and more specifically the coverage of migrant children employed in agriculture. A majority of the committee in adopting this amendment believes that the children of migrants who typically accompany their parents in the harvest are not at this time appropriate persons to whom to apply an hourly minimum wage under the act. The exemption is limited to (1) children 16 years of age or under employed as hand harvest laborers, paid on a piece-rate basis on the same farm as their parent. It also requires that the same piece rate be paid such employees as other employees over age 16 are paid on the same farm. The committee also adopted an amendment to section 13(c) of the act, which would prohibit employment of children below the age of 16 in an occupation in agriculture if the Secretary of Labor finds the occupation to be particularly hazardous (unless such employees are employed by their parents on their parents'

farm). This protection for children under 16 employed in agriculture would be in addition to the present provisions prohibiting employment of children in agriculture during school hours, which is retained by this bill. The committee rejected an amendment prohibiting employment of children in agriculture under age 12 and between ages 12 and 14 under certain circumstances. It does intend to study further the employment of children in agriculture to determine what further protection is needed.

Mr. President, the Javits amendment this morning is the same as the earlier Javits amendment except it would include the section on hazardous occupations.

This amendment would extend the child labor provision to work outside of school hours to work on farms, except family employment. Children 12 to 14 could be employed if they lived within commuting distance of home and had their parents' consent. None under 12 could be employed, except by their own family on a family farm.

The committee decided against adopting the child labor amendment presented by the Senator from New York for the following reasons:

First, this is an extremely sensitive area where there were widely divergent views whether young people should be denied employment opportunities they get and farmers in need of temporary help should be denied that help. Second, in the case of children employed in agriculture and where working with their parents, or children of migratory laborers, as known in the law, is there opportunity to exploit the child. Third, there are real dangers in agriculture, in power equipment or other hazardous equipment. The committee has taken the most important step to reduce this danger by extending the prohibition against hazardous employment to agriculture.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a comparison of the Green amendment, the Morse amendment, the Javits amendment, and the present act.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

EMPLOYMENT OF CHILDREN IN AGRICULTURE

MORSE AMENDMENT (MINIMUM WAGE)

JAVITS AMENDMENT (CHILD LABOR)

PRESENT ACT

GREEN AMENDMENT (MINIMUM WAGE)

A. Provisions

Exempts local, temporary, hand harvest workers paid on a piece rate basis from the minimum wage provisions of the House bill covering farm workers.

Requires that a child 16 or under employed as hand harvest labor other than local and paid on a piece rate basis be paid at the same piece rate as other workers on the same farm.

Except for a child employed by a parent on a farm owned or operated by the parent or on a neighboring farm as defined by the Secretary prohibits the employment of any child 14 or under in agriculture, unless the child commutes daily and—

- (1) such employment is with his parent's consent; or
 - (2) his parent is also employed on the same farm.
- If these two tests are met, a child as young as 12 may be employed. Also prohibits any child under 16 from being employed in hazardous occupations.

B. Effect of Javits amendment

No local, temporary hand harvest worker under 12 and none under 14 unless he commutes or is employed with his parents, could be employed. No prohibition on age 14 or over. In many areas of the country there are substantial numbers of local temporary hand harvest workers under 14. We have no estimates.

Would limit the applicability of the Morse amendment to youths between 14 and 16 years of age when not employed in a hazardous occupation.

- (1) Extends child labor protection for first time to children in agriculture.
- (2) Prohibits employment of child under ages 12 to 14 under certain conditions or employment with parents, and no prohibition age 14 or over.
- (3) Sets a 16 year age for hazardous occupations in agriculture.

Mr. MORSE. Mr. President, I shall read a part of the chart, but I do want the entire chart in the Record.

The so-called Green amendment, which is in the bill that the committee brings to the floor of the Senate, exempts from minimum wage; local, temporary, hand harvest workers paid on a piece rate basis from the minimum wage provisions of the House bill covering farm workers. That has no age requirement whatsoever.

The effect of the Javits amendment upon the Green amendment would be that no local, temporary, hand harvest worker under 12 could be hired, and none under 14 unless he commutes or is employed with his parents, could be employed. There is no prohibition on age 14 or over. In many areas of the country there are substantial numbers of local, temporary hand harvest workers under 14. We do not have accurate estimates as to how many.

The Morse amendment, which is the language of the bill, exempts from minimum wage a child 16 or under employed as hand harvest labor other than local, but requires that he be paid on a piece-rate basis at the same piece rate as adult workers on the same farm.

The Javits amendment would limit the employment of these youths to those between 14 and 16 years of age.

As to the Javits amendment, it states: Except for a child employed by a parent on a farm owned or operated by the parent or on a neighboring farm as defined by the Secretary prohibits the employment of any child 14 or under in agriculture, unless the child commutes daily and—

- (1) such employment is with his parent's consent; or
 - (2) his parent is also employed on the same farm.
- If these two tests are met, a child as young as 12 may be employed. Also prohibits any child under 16 from being employed in hazardous occupations.

Mr. President, the Senate has listened to sincere men argue this morning that those of us who propose the Morse amendment are, apparently, in favor of the exploitation of boys and girls on the farms of this country. If that were true, I would not be standing here this morning arguing for the provisions of the bill which I offered in committee and which the committee adopted.

Let us take a look at two or three problems which confront us in regard to this child labor amendment.

There has been talk this morning

about the problem of migrant workers. Problems do exist in the migrant worker family. No child of a migrant worker can work in any orchard, strawberry patch, bean patch, or in any hand harvest occupation during school hours.

No one knows better than I that we have problems with migrant children in regard to their education. Of course, we have. But the answer is not to say that children of migrant workers cannot work at all outside of school hours. The answer is for us to take a course of action which will see to it that migrant children are given the same educational opportunities as nonmigrant children.

It is true that one of the problems connected with migrant children is the interruption of their education as they move about the country, education which they find difficult to maintain.

As an example, if a sixth-grade child is brought into X community, he will find it difficult to maintain the standards of the permanent sixth-graders.

That is why it is important in this field to proceed with the kind of aid for which I have been battling on the floor of the Senate in my capacity as chairman of the Subcommittee on Education

for many years, and will continue to battle for whatever special assistance is needed for the boys and girls who, otherwise, might become dropouts in school, unless we provide them with special educational facilities, to make it possible for them to catch up, in spite of the fact that those children will continue to travel with their migrant parents.

Are we going to say that when school is out those children must roam the streets and the communities? It is not as though there were extensive local facilities to occupy these young people when there is no regular school for them to attend.

I do not raise my right hand and swear to what degree, and neither can those who argue to the contrary, but there is a cause-to-effect relationship in this whole matter of juvenile delinquency in the communities where there are large numbers of migrant families. We are not going to help such a situation by saying that the children cannot work.

The PRESIDING OFFICER. The time of the Senator from Oregon has expired.

Mr. MORSE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Oregon will state it.

Mr. MORSE. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 49 minutes remaining.

Mr. MORSE. Mr. President, I yield myself 10 minutes, and would ask the Senator from Vermont [Mr. PROUTY] to watch the time, also.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 10 minutes.

Mr. MORSE. Mr. President, there is a problem which will raise its ugly head in regard to the migrant worker family problem, if we take the position that the children are not going to be able to pick crops after school hours, primarily during the summer months. We are dealing primarily with boys and girls who want to work during the vacation period. If anyone thinks that the amendment offered by the Senator from New York will be helpful in solving the problems of juvenile delinquency, he is mistaken, because I believe it will only contribute to it in the migrant family areas.

Next, I want to point out that the charges of abuse and exploitation are pretty much irrelevant, although I admit that there are places where there must be surveillance.

However, are we going to deny the youth of this country the opportunity to earn some vacation money and be the beneficiaries of other attributes which follow from that kind of work—which I shall mention in a moment—merely because there may be an employer here and there who must be watched?

Let me say that a great job of surveillance is being done and we will have a hard time finding many abuses of practices.

Which leads me to my next point: I stand before the Senate and I say that in most cases where there is a desire on the part of boys and girls and their parents that they be allowed to work, the work is good for them.

As the Senator from New York knows, I pointed out in committee that in my State, for example during the strawberry and raspberry-picking seasons, or for that matter in connection with bean crops, or in the orchards, even the schools, in many instances, they organize the children into groups which go out and pick these fruits and beans on a voluntary basis.

They do this under the supervision, for example, of the Sunday school, the YMCA, the YWCA, or other youth counsel groups—including, in some instances, Boy Scout and Girl Scout programs.

The Senator from New York inserted in the RECORD a figure on the high percentage of children engaged in my State, but it is not limited in my State to the picking of strawberries, raspberries, and other fruits and crops. However, it is supervised picking.

The impression has been left on the floor of the Senate today that these boys and girls are brought under the control of exploiters of child labor.

That is nonsense.

It will not be allowed, and has not been allowed in the communities of this

country. In those few instances which can be found as horrible examples, the community has intervened and pointed out to the employers that such treatment must stop.

What about the effect of this work on these children?

Well, I am the father of three daughters. Apparently, stating the background of Senators and their families has become somewhat of a testimonial meeting here this morning.

Let me say that through our church in my hometown, and through parent groups, for some years, berrypicking and beanpicking crews have been organized. The children would get up very early and go down to the center, and at 7 o'clock in the morning they would jump on the trucks and go out to work, under adult supervision.

The idea that they would pick all day also is nonsense. There are several reasons why they would not pick all day. There are crop reasons, weather reasons, and reasons of ripeness, for another.

Recreational activities were organized for them, including not only lunch, but also relaxation.

As far as my daughters are concerned—and it is true generally of those participating in this program—they were beneficiaries of this program. They learned some important things. I suppose some of the happiest discussions we had in those days was when, after they came home with their checks—they were not large—they would discuss what they would spend them for. A lesson they soon learned was that they would not buy much.

There has been great pooh-poohing of the value of the educational lesson. Let me say that it taught them more than their parents could teach them about the results of earning money and the expenditure of their money. It taught them more than their parents could teach them about the value and importance of work. The work they did not only earned them money, but it also helped them in many ways. We have had in my State, for example, an association, sometimes called a union, of these young people, in which they make their own representations to the employers concerned. I have met with them on occasions.

If anyone thinks the schoolchildren of Oregon are being exploited by any farmers who hire them to bring in the strawberry crop or the cherry crop or the bean crop, he could not be more mistaken. They are under careful surveillance.

I will tell Senators what will happen if the source of labor is curtailed. The crops will not be picked, and that means they will not be planted.

If there were an exploitation of these boys and girls, I would fight it.

But let me point out that we also eliminated the bracero program, which happened to be a standard-setting program for American agricultural workers. Now it appears that it may be part of a move to eliminate the migrant worker. I wish he could be eliminated in the sense that there would be a local supply of labor in the local communities to pick the crops. But such an availability does not

exist. Producers have suffered, contrary to the allegations which have been made, by the elimination of the bracero program.

Mr. President, this is a matter of control, supervision, and surveillance, rather than one of saying to these boys and girls, "You cannot work."

If I thought the adoption of the Javits amendment would be helpful to the boys and girls themselves, that it would be essential for the boys and girls themselves, I would be the first to vote for it. In my judgment, it is not. I think it is going to deny these boys and girls an opportunity to earn vacation money, and to participate in a work program which has also permitted them to participate in a youth supervision recreation program, which develops among them a remarkable esprit de corps in carrying out their work.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MORSE. I yield myself 1 additional minute.

So the opposition to this provision has not made out a case as to need for the amendment, and, in my judgment, it would not be a service to the boys and girls, because they are not being exploited.

Furthermore, in my judgment, it cannot be justified from the standpoint of the necessity of supplying, or having made available, on a voluntary basis, boys and girls to bring in the seasonal crops in many communities from coast to coast.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to a concurrent resolution (H. Con. Res. 990) authorizing the Secretary of the Senate to correct the enrollment of the bill (S. 3105), in which it requested the concurrence of the Senate.

CONSTRUCTION AT MILITARY INSTALLATIONS — CONCURRENT RESOLUTION

Mr. JAVITS. Mr. President, I send to the desk a House concurrent resolution (H. Con. Res. 990), and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The Chair lays before the Senate a concurrent resolution from the House, which will be stated.

The concurrent resolution (H. Con. Res. 990) was read by the legislative clerk, as follows:

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 3105) to authorize certain construction at military installations, and for other purposes, the Secretary of the Senate is authorized and directed to make the following correction:

In section 612, strike out "\$50,000" and insert "\$150,000".

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection the concurrent resolution (H. Con. Res. 990) was considered and agreed to.

MESSAGE FROM THE HOUSE—
ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 10104) to enact title 5, United States Code, "Government Organization and Employees," codifying the general and permanent laws relating to the organization of the Government of the United States and to its civilian officers and employees, and it was signed by the Acting President pro tempore.

COMMITTEE MEETING DURING
SENATE SESSION

On request of Mr. YARBOROUGH, and by unanimous consent, the Subcommittee on Executive Reorganization of the Committee on Government Operations was authorized to meet during the session of the Senate today.

FAIR LABOR STANDARDS AMEND-
MENTS OF 1966

The Senate resumed the consideration of the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

Mr. JAVITS. Mr. President, I yield 5 minutes to the Senator from Illinois [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. President, I have listened with great interest to the conflicting statements about the benefits or disadvantages of the measure with regard to children under the age of 12; namely, the contentions of the Senator from New York [Mr. JAVITS], the Senator from New Jersey [Mr. WILLIAMS], the Senator from Hawaii [Mr. INOUE], on the one hand, and our good friend the senior Senator from Oregon [Mr. MORSE], on the other.

It seems to me they were talking about different classes of children. The Senator from Oregon was speaking about children of relatively well-to-do families, who worked in communities which have orchards, berry patches, vegetable gardens, and the like, who, under close supervision, may well be duly benefited from this farm work. Other opponents have spoken about general farms owned by their parents. But the Senator from New York was primarily speaking about migratory children in migratory families. These migratory children are a very important part of the labor force, and in certain sections of the country, such as California, the Southwest, and the Atlantic coast from Florida north, form the major portion of the labor force. These are children of Mexican-Americans, of Negroes, and of poor white families, who move about the country, and who, as a matter of fact, are largely ineligible for local schooling.

In many localities the local communities do not enforce the compulsory education laws. In some cases, the children are ineligible because they have not been residents long enough. So they are excluded from the educational process and they work during school

hours, and not merely after school hours. They work under pressure, and in many cases their parents act as "drivers" and supervisors of their work.

It is this group that the Senator from New York and the Senator from New Jersey are primarily interested in protecting. I think they should be protected.

It is very easy to idealize in farmwork. Most of us have had experience in it and benefited from it, but the farmwork of children today, particularly in the field of fruits and vegetables or stoop labor, is very different from the farm labor of 50 years ago on a general farm.

Therefore, I think we should support the amendment of the Senator from New York and the Senator from New Jersey, which makes ample allowance for work on a general farm.

I want to emphasize again what the Senator from New York has mentioned; namely, that this amendment does not apply to children on the home farm. It does not apply to children working on adjoining farms. It does not apply to children who live within 25 miles of their home. So there is still ample opportunity for the type of work praised by the Senator from Oregon to continue.

But the amendment does strike at the abuse of children in the migratory group which moves across the country, deprived of education, working, on the whole, for a very small amount of money and working long hours in the hot sun.

I shall support the amendment of the Senator from New York and I commend him for it.

Mr. WILLIAMS of New Jersey. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. WILLIAMS of New Jersey. I have had an opportunity, as a result of my responsibilities as chairman of the Migratory Labor Subcommittee which deals with the problems of migrant farm workers, to be on farms from Florida to Michigan to California.

I have been on the farm. My knowledge is not from statistics but from first hand experience. I have learned just how cruel and how dangerous such labor can be. I have been on celery farms in Florida. Mr. President there are not enough dollars in the world to make me go to work on a celery farm.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. Mr. President, I yield an additional 2 minutes.

Mr. WILLIAMS of New Jersey. I have observed first hand the dangers of climbing trees in the orchards of Michigan, and I have seen children at work in the fields. As a result, the Congress has enacted legislation which would bring summer education to farm children.

I know what is happening. Mechanization has changed, is changing, and will continue to change agriculture, as the Senator from Hawaii can testify.

I certainly agree with the Senator. These youngsters should be given new windows to greater opportunity through education; but they will not be able to look through these windows as long as wages are low and they are forced to work to augment their families' income.

Mr. DOUGLAS. I thank the Senator from New Jersey, who deserves especial credit for his work in this field, because south New Jersey is one of the great centers of vegetable growing in the country. I suppose that in the past, south New Jersey has employed more migratory children than almost any other section of the country.

Mr. WILLIAMS of New Jersey. I think that, to a degree, this is true. We call New Jersey the Garden State, and children have been employed in agriculture. But I shall be everlastingly proud of the fact that the State of New Jersey has been No. 2 in availing itself of the opportunities presented under Federal programs, for day care, education, sanitation, and housing. These programs make life a great deal easier for our farmworkers' children.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WILLIAMS of New Jersey. I thank the Senator from New York.

Mr. JAVITS. Mr. President, unless some other Senator wishes to speak, I yield myself 3 minutes.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New York may proceed.

Mr. JAVITS. I yield myself this time in order to respond to a few of the arguments made by the Senator from Oregon [Mr. MORSE].

Mr. President, one thing that he said struck me very forcibly. He spoke of a child "as young as 12" working in the fields.

Mr. President, if this amendment is not adopted, children as young as 4, 6, 7, or 8 will be working in the fields. There is no inhibition whatever.

I think that is a very important point, because it indicates a certain concern about this question: How tender in years must a child be before he is prohibited from working in the fields?

The second point is what I have referred to before as the euphoria of bucolic occupation. I think the argument made that you get the children off the streets by getting them in the fields picking fruits or vegetables is just as valid for modern industrial and business concerns. If that is our only objective, to get the children off the streets or off the roads so they will not be subject to juvenile delinquency, then let us repeal the child labor amendment of the wage and hour law as it now exists, and get them back in the textile mills, plants, and factories. That will effectively keep them off the streets and roads, especially in a time of high employment such as this.

Finally, Mr. President, much has been made here of what the committee did. Mr. President, the subcommittee, which included a group of men who supposedly specialized in this particular activity, and heard a great deal of testimony, adopted the amendment which Senator KUCHEL, Senator WILLIAMS, and I are proposing by a vote of 6 to 4. It was only in the committee itself where, by very closely divided votes, the matter finally, in part—at least two-thirds of it—was overturned.

Mr. President, I point out further that there is no inhibition here of 4-H clubs.

They have never been defined as agricultural employers, under this or any other legislation.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. JAVITS. I yield myself 2 additional minutes.

There is plenty of latitude, under the amendment as Senator WILLIAMS, Senator KUCHEL, and I have proposed it, for children to work, not only on family farms or on neighboring farms, but also within 25 miles of their homes, under given conditions. So, Mr. President, as far as those areas of employment which may relate to an opportunity for healthful occupation with some compensation are concerned, that is one thing; but the grinding labor, Mr. President, to which we are objecting, is very different. That is what needs to be prohibited.

Concerning this matter of working only outside of school hours, I point out that the investigation of the Wage-and-Hour Division has demonstrated that in local communities, school hours at harvest season can be made to start at 12 o'clock noon. By that time, the child may have spent as much as 5 or 6 hours in the fields, and be too exhausted to absorb much education. Surveys by the Wage and Hour Division illustrate that children illegally employed on the farms were generally below the grade level for their age in school; and among migrant children, the percentage ran to as high as three-fourths of all the children concerned.

So, Mr. President, for all these reasons, I deeply believe the Senate should follow the precedents which it itself established in 1961 and 1963, and, while it is extending the minimum wage to the agricultural labor field, accompany it, as it did in the industrial and business fields, with a child labor amendment.

Mr. President, I am advised that the Senator from Vermont [Mr. PROUTY] proposes to offer a substitute for this amendment—a matter of which I was not aware until this morning. I have not yet been permitted to see the proposed substitute. I think efficient handling of the Senate's business would perhaps best be served if we cleared the decks, I say to the Senator from Texas, so that we might all see the proposed substitute, and then we could debate the matter which will undoubtedly be the subject of the first vote on this issue.

Unless other Senators desire to have time yielded to them, I am prepared to yield back the remainder of my time.

Mr. MORSE. Mr. President, will the Senator withhold that suggestion for a moment? I wish to make a brief reply.

Mr. JAVITS. Yes.

Mr. MORSE. I yield myself 5 minutes to speak in reply to the Senator from New York.

The work of boys and girls on farms is a far cry from the work of boys and girls in textile plants or any other industrial plants, prior to the enactment of the child labor laws. In those days, children started to work at an early hour in the morning and worked throughout the day. I think it is a false analogy to present that type of comparison in this debate.

I take Senators now to two types of agricultural communities. One of them has become dependent upon migrant families to pick berries, cherries, pears, apples, or whatnot, because of the simple lack of local labor to do that work. I would prefer that local labor were available to do the work, as I have said to some of my friends in the labor movement who have for years disagreed with me because of my position with respect to agricultural labor. I have said that there is a middle road that ought to be followed, and it is that middle road that I favor in connection with the language of the bill, and it is the language that I proposed which was adopted.

I say to the labor leaders: "You can't supply that kind of labor, and you are not supplying it, on a local basis. In fact, such labor is not now being supplied, since the elimination without adequate cause, in my judgment, of the bracero program."

But let me take Senators to an agricultural community which is dependent upon the work of 500 migrant families in the area. They sometimes bring into the community, more than a thousand children. I do not need to point out the disruptive effect that that has in many respects upon community life.

Although the practice varies among the States, it is to the credit of the Department of Agriculture and the Department of Labor that great improvements have been made in the last 10 years in housing requirements and in the co-operation among the States.

In many communities the migrant housing facilities are not at all good, but at least, in most instances, such facilities are required to be sanitary, and water and toilet facilities are now provided.

Let us consider a family having from two to five youngsters. The Senator from New York says such a family may have five, six, or seven children. Whatever the number, it is merely a suggestion for a pattern. Their ages may range from 9 to 12 or 13 or 14. He said that the children have to go into the berry patches or the orchards with their parents. Well, what would we want them to do?

Do we want to leave them back in the shacks? Do we think that will be helpful in the development of those children?

They go out in the orchard or the berry patch. They are not working every minute of the time. However, if one visits a pear orchard, he will note that these youngsters can pick up the pears that are on the ground. They get the same piece rate as the adults or, in some instances, they can pick the pears or apples from the lower branches. They get the same rates as the adults. They are not being exploited on their piece rate. They do a lot of playing and cavorting around.

If one has been in the large orchards, as I have been, he has noted that there is a problem concerning the management of the youngsters who may not be picking at the particular time. However, the management must have those families there.

I point out on the floor of the Senate that if we adopt the Javits amendment, we will throw a good many agricultural communities in this country into an economic depression. They will not get the workers. Those families will not come unless, during the hours when school is not in session—and most of the work is really done during vacation periods—their youngsters can help at least to do the type of work in the orchard or the berry patch that children of these ages can do.

That is the problem.

I think there is a lack of realism in much of the argument in support of this amendment.

Concerning the problem of education, my friend the Senator from New York, says that in some communities they do not open school until noon. Those instances are as rare as hens' teeth.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MORSE. Mr. President, I yield myself an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized for an additional 2 minutes.

Mr. MORSE. Mr. President, those instances are quite exceptional cases. I know it is true that in some areas in which we have a crop-picking emergency the schools may be let out for 3 or 4 days in order to get the crop in. That does happen in some places. However, Mr. President, those are very temporary periods of time.

Our real problem with these migrant children is to find the educational facilities in the local school districts that will take care of their special needs, because a large percentage of them do have special needs.

One may be old enough to be in the sixth grade, but not have had the training to make it possible for him to carry on the work in the sixth grade. That is the problem.

I do not think the educational problem is going to be met one whit by saying that they are not going to be able to work when there is no school. I think we have to balance the interests.

We have gone a long way in the pending bill. We have put in the hazardous occupation provision. I think that the bill and the committee report will make it very clear that there is responsibility on the part of the local communities to engage in the necessary surveillance to see to it that injustices are not done to schoolchildren. However, for us in our position of affluence—which has been talked about on the floor of the Senate—for us, whose children do not need to work in order to help maintain the family budget because we are not migratory workers and do not belong to migratory families, to say, "We are not going to let these children work along with their mothers and fathers in these orchards and berry patches," is not going to help solve social problems. That will create social problems.

I think the better way to approach this problem is to go ahead with whatever restrictions are necessary and needed to help these migratory children and, at the same time, not deny to their parents an

opportunity to work. That is what we would do, for they will not be migratory workers if they must depend entirely for their family income upon what one or two adults are able to pick.

Mr. JAVITS. Mr. President, I yield 3 minutes to the junior Senator from Virginia.

Mr. BYRD of Virginia. Mr. President, as one who represents a State in which a good deal of migratory labor is utilized, I have taken a keen interest in this problem.

When I was a Member of the Virginia Senate, I introduced legislation to establish housing requirements and health standards for migratory laborers who come into the Commonwealth of Virginia.

I am very pleased that that legislation attracted the attention of the distinguished Senator from New Jersey [Mr. WILLIAMS] who very kindly addressed a communication to me following the enactment of that legislation in Virginia.

I feel that migratory labor deserves consideration, far more consideration than it has received in many cases in the past in most of the States of the Nation.

Virginia has a reasonably fair law. That law was enacted, I might say, over the strenuous opposition of certain agricultural groups in Virginia. I sponsored the legislation, so I long ago evidenced an interest in the conditions of the migrant worker.

Mr. President, I should like to ask several questions concerning the Javits' amendment for the purpose of clarification.

Do I correctly understand the Javits' amendment to mean that the child of any farmer can work on the family farm without an age limit?

Mr. JAVITS. The Senator is exactly correct. He would also be permitted to work on a neighboring farm as defined by the Secretary of Labor.

Mr. BYRD of Virginia. Mr. President, in that connection, no age limit is provided in the Javits' amendment for children working on neighboring farms.

Mr. JAVITS. The Senator is correct.

Mr. BYRD of Virginia. On page 2 of the Javits amendment it says: "is 12 years of age or over and is employed on a farm to which he commutes daily." I understood the Senator to say a moment ago that there was no age limitation for children working on a neighboring farm.

Mr. JAVITS. The Senator is correct. The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. JAVITS. Mr. President, I yield 2 additional minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized for an additional 2 minutes.

Mr. JAVITS. Mr. President, the question of commuting appears in a totally different subsection of the amendment than does the question of a child working on a family farm or on a neighboring farm.

The Senator will note that the word "or" is used. It states: "or is 14 years of age or over."

In other words, if over 14 years of age, the child can work in agriculture. Then, the third part of it is that even if he is only 12—that is, between the ages of 12 and 14—he may work on a farm to which he commutes daily, if it is within 25 miles, and with the written consent of his parent.

Mr. BYRD of Virginia. Then, to rephrase it, he may work on his family farm, without limitation as to age?

Mr. JAVITS. The Senator is correct.

Mr. BYRD of Virginia. He may work on a farm within commuting distance of 25 miles if he is 12 years old or older?

Mr. JAVITS. And has the consent of his parent.

Mr. BYRD of Virginia. And has the consent of his parent.

Mr. JAVITS. He can work on any farm if he is 14 years or over.

Mr. BYRD of Virginia. In effect, the main thrust of the amendment of the Senator is directed at migratory labor, which is to say that under this amendment, migratory labor must be 14 years or older.

Mr. JAVITS. The Senator is correct. That is, the children of migratory laborers must be 14 years or older.

Mr. BYRD of Virginia. The children of migratory laborers must be 14 years or older.

Mr. JAVITS. The Senator is correct.

Mr. MORSE. May I have 2 minutes to address myself to the Senator from Virginia?

The PRESIDING OFFICER. The Senator is recognized.

Mr. MORSE. Does the Senator from Virginia recognize that under the amendment which Representative GREEN put in the bill in the House, there is no age limitation whatsoever for the migrant worker's child or for the child of local parents living within 25 miles of the orchard or the berry patch or for the child on the neighborhood farm, but that we find that the Javits amendment conflicts with the Green amendment, in that under the Javits amendment there can be no workers under 12. On a neighboring farm, or the part that the children commute 25 miles? Anyone under 12 cannot work. Does the Senator understand that?

Mr. BYRD of Virginia. The Senator from Oregon refers to the Green amendment. I assume that that is the language of the bill as proposed by the Senate committee.

Mr. MORSE. The Senator is correct.

Mr. BYRD of Virginia. Yes, it is my understanding, that the bill as reported to the Senate has no age limitation.

Mr. MORSE. The Senator is correct.

Mr. BYRD of Virginia. The Javits amendment puts an age limitation of 12 years on neighboring or commuting farms.

Mr. MORSE. But not on the family farm.

Mr. BYRD of Virginia. But not on the family farm. And it puts a 14-year limitation on migratory labor.

Mr. MORSE. The Senator is correct.

Mr. JAVITS. May I make a correction?

The PRESIDING OFFICER. Does the Senator yield?

Mr. JAVITS. I yield myself 1 minute.

My amendment does not put an age limit on the neighboring farm. Outside of school hours, the child may work on the family farm or a neighboring farm, without regard to age. The age limitation begins to come in when he commutes. Then he may only commute, if he is over 12 years old, within 25 miles, with the consent of the parent.

Mr. BYRD of Virginia. When he goes to a farm beyond the farm adjacent to where he lives.

Mr. JAVITS. The Senator is correct.

Mr. MORSE. The Senator makes it even worse. As far as discriminatory practices are concerned, this means that in a farm community which has farm families with large numbers of children, the children under 12 can go across the road or down the road three or four farms, which are still neighboring farms, and they can work, and there is no restriction. But if they live within 25 miles, and their parents tell them that they can go out and pick strawberries, and they happen to be 10 or 11 years old—

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MORSE. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. MORSE. If they live 10 or 25 miles away, those parents cannot send them out to pick in the strawberry patch or pick up the apples or the pears, if they are under 12.

Mr. BYRD of Virginia. That is my understanding of the amendment.

Mr. MORSE. That is why I say it is in conflict with the provisions of the Green amendment.

Mr. WILLIAMS of New Jersey. Mr. President, will the Senator yield?

Mr. JAVITS. I yield 2 minutes to the Senator from New Jersey.

Mr. WILLIAMS of New Jersey. The Green amendment deals with minimum wages, and those who are covered under this minimum wage bill. Is that correct?

Mr. MORSE. It also deals with who can work. Under the Green amendment, if one wanted to send the children into the strawberry patches or into the cherry orchards, and the children commute daily from their permanent residence to the patch or the orchard.

That was in direct response, may I say, to the demand in many States—

Mr. WILLIAMS of New Jersey. I may be wrong, but I am sure that the Green amendment has nothing to do with restricting those who can work. It merely deals with who will be paid a minimum wage.

Mr. MORSE. The Senator is just as dead wrong as he can be. The Javits amendment provides who can work, and the Green amendment the conditions under which a person can work. Under the Green amendment, the wage would be computed at piece rate.

Mr. WILLIAMS of New Jersey. That is also in the Senate bill.

Mr. MORSE. As far as the minimum wage is concerned, the Green amendment only makes perfectly clear that children must be paid at a piece rate.

Mr. WILLIAMS of New Jersey. The Senator is correct.

Mr. MORSE. But the effect of the amendment considered with the prohibition of the Javits amendment is to decide who can work and who cannot work.

Mr. WILLIAMS of New Jersey. Oh, no. I am sure that the Senator from Oregon is wrong. In fact, I would wager with the Senator from Oregon that if I am wrong, he would buy back the horse which I bought from him.

Mr. MORSE. The Senator from New Jersey did not take good care of the horse. He ruined the horse.

Mr. DOUGLAS. No greater penalty could be exacted than that.

Mr. WILLIAMS of New Jersey. We will find out in conference who is wrong.

Mr. MORSE. The Green amendment regulates wages and makes clear who can work. That was put in so that strawberry pickers could work under the conditions provided in the bill.

I have included this whole principle in my amendment. I go along with the Green amendment, and my amendment provides that there will not be the age restriction that the Senator from New York wants to impose.

Mr. JAVITS. Mr. President, I yield myself 1 minute to state to the Senate that I am very pleased to ask unanimous consent that Senator KUCHEL may be joined as a sponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. The distinguished Senator from California introduced a bill in 1965 carrying almost exactly these words which we are seeking to put into the Fair Labor Standards Act today. He has had a long history of advocacy of this concept of preventing child labor in the fields, and I am delighted to welcome him, with Senator WILLIAMS and myself to the sponsorship of the amendment.

Mr. KUCHEL. Mr. President, I am honored to be associated with my good friend, the senior Senator from New York, in this legislation, the ends for which have been close to my heart in the political history in which I have been engaged in the Senate, and I hope that the Senate will shortly adopt the amendment.

Mr. JAVITS. I thank my colleague.

Mr. President, I am now prepared to yield back the time on the amendment.

Mr. MORSE. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back—

Mr. PROUTY. Mr. President, I send to the desk an amendment in the nature of a substitute for the Javits amendment.

The PRESIDING OFFICER (Mr. TALMADGE in the chair). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont [Mr. PROUTY] proposes to strike out everything on line 14, page 43 to line 3, page 44, and insert—

Mr. YARBOROUGH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. YARBOROUGH. Mr. President, will the clerk please read again what lines are stricken out?

The PRESIDING OFFICER. The Chair is trying to ascertain what the language of the amendment is.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. JAVITS. The time to be charged to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that notwithstanding the yielding back of time, the time taken on the quorum call may be deducted from the time on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment of the Senator from Vermont [Mr. PROUTY] will be stated.

The legislative clerk read as follows:

In lieu of the matter proposed to be inserted by Amendment No. 759 insert the following:

"(c)(1) The provisions of section 12 relating to child labor shall not apply with respect to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, or to any child 10 years of age or over employed as an actor or performer in motion pictures, or theatrical production, or in radio or television production."

The PRESIDING OFFICER. How much time does the Senator yield to himself?

Mr. PROUTY. I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 10 minutes.

Mr. PROUTY. Mr. President, this amendment will leave the child-labor provisions of the bill exactly as they were reported by the Committee on Labor and Public Welfare, except that it also provides a provision which brings children under 10 years old in theatrical and television productions under the child-labor provisions of the Fair Labor Standards Act.

In other words, under my substitute amendment, children 9 years of age and younger cannot appear in theatrical productions, movies and television shows if the Secretary of Labor finds the conditions under which they work are oppressive. It is as simple as that.

I can think of no group of children who are more highly exploited and subjected to greater tension and pressure than those who work in theaters under klieg lights for hours and hours under the intense heat and tension which prevails in motion pictures, radio and television.

It seems to me that these children, above all others, should be protected. The law does not now cover children engaged in this type of work. That is all that my amendment would do.

I wish to discuss briefly the amendment which has been offered by the distinguished Senator from New York [Mr. JAVITS]. The senior Senator from New York is always eloquent and the arguments which he makes in support of posi-

tions he wishes to take are usually logical. However, I am afraid on this particular occasion that objectivity has been cast to the four winds.

It seems to me, Mr. President, that the amendment which has been suggested by the distinguished Senator from New York [Mr. JAVITS] is quite unrealistic.

Mr. President, let us analyze this amendment rather carefully. We will find that a child of any age—4, 5, 6, and up—can be employed on his family's farm.

Mr. DOUGLAS. Is the Senator speaking of the Javits amendment?

Mr. PROUTY. Yes, under the Javits amendment.

We will find that a child under 12 may be employed on a "neighboring farm." However, no one knows what the term "neighboring farm" means. Is it the next farm? Or is it one, two, or three farms away? This is not defined in the bill. We will also find that a child between 12 and 14, with his parents' consent, can work on any farm within 25 miles of his home.

If he is a son of a migratory worker, however, he must be 14 or older to work with his parents. Even with their consent and approval, he cannot work with them before he is 14. It seems to me that that is a completely unrealistic provision. I certainly am as much concerned about the problems of migratory labor as anyone else, but it is a fact of life that we have to have them, or at least we have to have them at the present time. It is far better to have these youngsters working to earn something to supplement family income, rather than running loose when their folks are working in the fields.

I think that the distinguished Senator from New York recalls his days as a youngster on the streets of Manhattan. He remembers the exploitation of children and women in the plants in the great city. But we are not having sweatshops on the farms under God's heaven in America. It is good, healthy, outdoor work and far better for youngsters than performing in theaters night after night, keeping late hours.

I was in the National Theater last week. I saw "Annie Get Your Gun" with the inimitable Ethel Merman. There were four youngsters in the cast. I think the oldest one was perhaps 6 or 7 years old. The little boy could not have been more than 5. He must have arrived at the theater around 7 o'clock—the show started at 8:30 with all the time needed for makeup, and so forth—and the show ended at 11:30 p.m. That youngster and the other three with him were on stage at the beginning and when the show had ended. They probably did not get to bed before 1 o'clock or 2 o'clock in the morning.

If that is not a life which is much more harmful and destructive to the normal development of those youngsters than working in a farmer's field, then I do not know what is.

I am sure that my distinguished friend from New York will recognize that fact.

Mr. DOUGLAS. Mr. President, will the Senator from Vermont yield for a question?

Mr. PROUTY. I am happy to yield to the Senator from Illinois.

Mr. DOUGLAS. Under the Prouty amendment, would children under the age of 12 be permitted to work for any number of hours in agriculture?

Mr. PROUTY. The law would be the same as it is now.

Mr. DOUGLAS. Would they not be permitted to work any number of hours under the Senator's amendment?

Mr. PROUTY. I believe that would be the case. They could not work, of course, during school hours.

Mr. DOUGLAS. So that children, 5, 6, or 7 years old would have no limitation placed upon them as to the number of hours they could work?

Mr. PROUTY. I think that is the case under present law and that would be true.

Mr. DOUGLAS. And would be continued under the Prouty amendment, would it not?

Mr. PROUTY. That is true. This is the same under my amendment as under the committee-reported bill. When I was 13 years old, I had already done a man's work, unloading hardwood logs from a barge. That was dangerous work. I certainly would not permit any child of mine to do that.

I am sure that every Senator here who was born on a farm worked at some time since he was 3 or 4 years old doing chores. I was not born on a farm, but I had to mow the lawn around my father's house, and we did not have power mowers in those days. We had to push them. It was hard work. I also had to keep the woodbox filled. I had to do many other chores, which did not hurt me one bit.

Kids working as migratory labor certainly do not work under an ideal situation. I hope that we can abolish that condition some day. However, they are far better off being with their parents. Perhaps their parents cannot work unless they find someone who can take care of their children. It is far better to have the children working under the supervision of their parents.

I think that the suggestion that they are going to be working 16 to 18 hours a day is a little bit ridiculous. I do not believe there has ever been any evidence to suggest that anything of that nature has gone on, or is going on at the present time. Perhaps it did years ago.

Thus, I think my amendment is highly desirable. We must recognize that it is far better for these kids to work out in the open air picking strawberries, raspberries, cherries, or anything of that nature.

Why, years ago they used to close the schools in my State for fifth-grade children so that they could go out and help pick apples. It did not hurt them one single bit. They earned some money and it was of advantage to the farmers and to the parents of the youngsters, particularly those in poor circumstances. This was done throughout Vermont during the depression in the 1930's.

Thus, in my judgment—

The PRESIDING OFFICER. The time of the Senator from Vermont has expired.

Mr. PROUTY. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 2 additional minutes.

Mr. PROUTY. Mr. President, in my judgment, we are not exploiting child labor under the bill as reported by the committee. This point was discussed at considerable length at the time.

Mr. President, I modify my amendment by striking line 25 on page 43 and lines 1 through 3 on page 44.

Mr. JAVITS. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from New York will state his point of order.

Mr. JAVITS. As I understand it, a substitute could lie only to my amendment and not to the text of the bill itself, is that not correct?

Of course I have no desire to impede the Senator from Vermont, but it seems to me that if he wishes to strike any part of the bill, he can properly do that after my amendment has been acted on.

The PRESIDING OFFICER. The Senator's point of order is well taken. The Senator from Vermont [Mr. PROUTY] may not modify his amendment in accordance with his desire.

Mr. PROUTY. Mr. President, I reserve the remainder of my time.

Mr. JAVITS. Mr. President—

The PRESIDING OFFICER. How much time does the Senator from New York yield himself?

Mr. JAVITS. Mr. President, on time, the opposition is in a little anomalous situation. Let me suggest to the Senator from Texas that he control the time and yield me 5 minutes.

Mr. YARBOROUGH. Mr. President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

The Senate will first be in order.

The Senator from New York may proceed.

Mr. JAVITS. Let the Senate be perfectly clear on what is before it. The amendment of the Senator from Vermont has absolutely no relation whatever to my amendment. My amendment would seek to insert into the bill a child labor provision. The substitute of the Senator from Vermont would completely eliminate my amendment. He is against it. He takes the same position as the Senator from Oregon [Mr. MORSE] and other Senators who oppose the amendment, except that the Senator from Vermont adds a new feature, namely, to eliminate the employment of children as actors unless they are over 10 years of age.

My amendment does not deal with that point at all.

Mr. President, I have no desire to characterize anything personally. The Senator from Vermont knows of my deep affection and regard for him. However, solely on the basis on procedure, his amendment is retaliatory. In other words, he says, "If you are going to prevail in your child labor amendment, then I am going to make it impossible for chil-

dren to perform unless they are over 10 years of age."

His amendment has nothing to do with the particular issue at hand. He says, "You have got to take that, if you are going to get yours."

That is what it comes down to, Mr. President.

He says further, "If you carry the substitute, you defeat your amendment because the substitute expressly eliminates the agricultural child labor provision from this bill."

Thus, Mr. President, I do not believe that the Senate will be at all confused by that maneuver. In other words, it is another way of voting "no" to the amendment which the Senator from New Jersey [Mr. WILLIAMS], the Senator from California [Mr. KUCHEL], and I have proposed.

As to the substantive point at issue—to wit, children working in the theater, this was discussed at great length in the committee. The committee happens to have a Senator of great distinction in the theater as one of its members; namely, the Senator from California [Mr. MURPHY]. When this matter was raised in committee, he was drawn immediately to his feet to say that there are no children he knows of in the United States who enjoy more advantages in terms of schooling and care, and so forth, than children in the theater, movies, television, and so forth.

I think that is pretty common knowledge, anyway. The laws of the great States where most theatrical performances take place cover these children very, very completely—New York, California—and I am sure it is also true of the District of Columbia.

We have never had any complaint about it. We have never had any hearings on the subject. This matter has been strictly imported into the bill by this substitute amendment as a retaliatory move. It can be characterized as nothing else but a retaliatory move.

We know that some of the greatest talent developed in this country in the field of theatrical performances has been developed as very young children. It seems trite to mention Shirley Temple. She is an American institution. She developed as a child performer.

Thus, with all due respect which it deserves, I really do not think that a great and extended harangue by me on this point is needed. It has been imported into the situation to add a retaliatory note to those who oppose my amendment.

I do not think it is justified. I think my amendment should be fought out "Yes" or "No" on its merits. The substitute is a totally extraneous matter which only bedevils the issue. I trust the Senate will not allow dust to be thrown into its eyes. Others have stood and fought for longer than I have on this issue and have accepted defeat in good sportsmanship. I feel the same way. However, I do not think it adds anything to the bill to add this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MORSE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 2 minutes.

Mr. MORSE. Mr. President, I should like to have the attention of the Senator from New York [Mr. JAVITS] and also of the Senator from California [Mr. KUCHEL] in regard to the subject matter of this amendment.

It is my understanding that years ago there was a very serious problem in the field of the arts as it related to the matter of child labor; that at that time there was a failure on the part of the arts to give adequate protection to children who participated in the arts, whether on the stage or in other arts. Some of the problems dealt with juvenile musicians, as Senators will recall, as well as juveniles who performed on the stage.

The whole theatrical profession, as a result of the public clamor, took steps to see to it that those children received protection. Within the arts they adopted safeguarding protections for those children. California is one of the leading States, if not the leading State, in this field, and that is why I asked the attention of the Senator from California while I made this statement. It is my information, and I think it is reliable, that California has seen to it that children in that field are protected with regard to their education and that the hours that they are required to perform are reasonable.

We have had no evidence given to our committee showing that there is a problem of abuse in this field.

Therefore, in the absence of any evidence produced at the hearings as to the need for this amendment, I shall be inclined to vote against the amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MORSE. I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 2 additional minutes.

Mr. MORSE. I shall oppose the amendment for that reason, but any time evidence can be submitted to me that there is need for protective legislation, I shall support it. There is no need for legislation as proposed by the Prouty amendment, as has been pointed out in the arguments here, such as in connection with the migrant families. There the problem is to provide protection to see to it that there can be better recreational facilities, better educational facilities, and better health assistance. The answer is not to deny those children the right to pick berries, cherries, pears, and whatnot in off-school hours, but the problem is for us to get busy and see to it that these boys and girls are given the opportunities necessary to get the education and the training necessary for them to end up in a better economic situation than their migrant parents.

So I shall vote against the Prouty amendment, and I shall also vote against the Javits amendment, because, in my judgment, the Javits amendment does not deal with the real problem of doing something relating to the children of migrant workers.

Mr. PROUTY. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 1 minute.

Mr. PROUTY. Mr. President, I offered the amendment just to point out, as the Senator from Oregon has suggested, the problems involved in the amendment offered by my friend the Senator from New York. I wanted to focus attention upon the shortcomings of that amendment and why it is completely unrealistic.

Therefore, I withdraw my amendment.

The PRESIDING OFFICER. The amendment of the Senator from Vermont is withdrawn.

The question is on the amendment of the Senator from New York [Mr. JAVITS]. The yeas and nays have been ordered—

Mr. KUCHEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Out of whose time?

Mr. JAVITS. Mr. President, I ask unanimous consent that the time may be charged to neither side for the quorum call.

Mr. AIKEN. Mr. President, is this a quorum call?

Mr. JAVITS. Yes, before a vote.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield 1 minute on the bill to the Senator from California.

The PRESIDING OFFICER. The Senator has used all his time on the amendment.

Mr. JAVITS. I yield 1 minute on the bill to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 1 minute.

Mr. KUCHEL. Mr. President, I hope very much that the Senate will adopt this amendment. I think it is a tragedy that, as the bill comes before the Senate, the only provision with respect to children below the age of 16 is that the Secretary of Labor may find the particular type of work to be "particularly hazardous," and if he does not find the work to be "particularly hazardous" there is an absolute and complete blank in the provisions of the bill so far as the welfare of young children is concerned. We have offered an amendment which I hope may be accepted, adding a measure of protection for the very young.

Mr. President, I ask unanimous consent that at this point there be inserted in the RECORD a summary of the State laws respecting child labor in agriculture. I ask this so that the RECORD will show clearly the situation now existing among the several States.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

CHILD LABOR AND SCHOOL ATTENDANCE

Only 11 States, Puerto Rico, and the District of Columbia specifically provide a minimum age for employment of children in agriculture outside school hours; and 19 States, Puerto Rico, and the District of Columbia provide a minimum age for such work during school hours. The minimum ages in these 22 jurisdictions are:

State	Outside school hours and during school vacations ¹	During school hours ²
Alaska.....	14.....	No minimum age.
California.....	14 (12 in vacation and on weekly holidays).....	15 (14 under certain conditions).
Colorado.....	12.....	16 (14 if legally excused from school).
Connecticut.....	14.....	14.
District of Columbia.....	14.....	14.
Florida.....	No minimum age.....	16 (12 under certain conditions).
Hawaii.....	14 (10 in coffee growing).....	16 (14 under certain conditions).
Illinois.....	No minimum age.....	16.
Indiana.....	do.....	14.
Maryland.....	do.....	16.
Massachusetts.....	do.....	14.
Minnesota.....	do.....	14.
Missouri.....	14.....	14.
New Jersey.....	12.....	16.
New York.....	14 (12 in certain work).....	16.
Ohio.....	No minimum age.....	16.
Pennsylvania.....	do.....	15 (14 under certain conditions).
Puerto Rico.....	14.....	16 (14 under certain conditions).
Texas.....	14 (no minimum age for work in summer).....	14.
Utah.....	10.....	14.
Virginia.....	No minimum age if with parent's consent; otherwise, 14.	16.
Wisconsin.....	12 in certain work.....	12 in certain work.

¹ In Connecticut the minimum age applies in any week that an employer has an average of more than 15 employees. In Hawaii, minors 10 to 14 may work in the coffee-growing industry after the director has determined that sufficient adult labor is not available. In New York, children of 12 may assist in the hand harvest of berries, fruit, and vegetables for not more than 4 hours a day between 9 a.m. and 4 p.m. when school is not in session if such children are accompanied by a parent or have the parent's consent. In Wisconsin, the minimum age of 12 during and outside school hours applies to employment in cherry orchards, market gardening, gardening conducted or controlled by canning companies, and the culture of sugarbeets and cranberries.

² In Alaska, school attendance is required up to 16 with certain exemptions. In California, minors 14 and over who have completed the 8th grade or whose earnings are needed for family support may be employed during school hours. The Colorado law permits the industrial commissioner to grant special exemptions. The Florida law permits minors 12 and over to be employed if legally excused from school, or if because of poverty the industrial commission determines such work is necessary, or if recommended by a juvenile court judge. In Hawaii, the minimum age applies when a child is required to attend school, otherwise the age is 14. The Pennsylvania law permits employment of a minor 14 or over who has completed the highest elementary grade in his district upon proof of urgent need. In Puerto Rico, minors 14 or 15 may work in nonhazardous employments if school attendance is not possible.

In 13 other States a minimum age is set for employment in "any occupation" or "any business or service," which could be in-

terpreted to include work in agriculture. Of these, only Arkansas sets a minimum age, which is 14, for work both during and out-

side school hours. In the remaining States, the minimum age applies to work during school hours only:

State:	During school hours
Arizona	14
Arkansas	14
Idaho	14
Kansas	14
Maine	15
Montana	16
Nebraska	14
Nevada	14
New Mexico	14
North Dakota	14
Oregon	14
Vermont	14
Wyoming	16

The remaining 17 States clearly do not cover employment of children in agriculture either during or outside school hours: Alabama, Delaware, Georgia, Iowa, Kentucky, Louisiana, Michigan, Mississippi, New Hampshire, North Carolina, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Washington, and West Virginia.

Compulsory school attendance laws supplement the standards set under the child labor laws by requiring boys and girls to attend school to a certain age, usually to 16. In many States, however, these laws permit children under 16, or even under 14, to be excused from school for work, including work in agriculture.

The situation as it relates to children of migratory farmworkers is even more serious, because the school laws often do not apply to them, and even where the laws apply, their opportunities for school attendance are often very meager since the migrants travel from State to State. A few States, including Colorado, Michigan, New Jersey, Oregon, and Pennsylvania, have enacted laws providing for summer sessions especially for children of migratory farmworkers, or specifically encouraging their attendance during the regular sessions.

Federal: Two Federal laws affect the employment of children in agriculture. The Fair Labor Standards Act establishes a 16-year minimum age for agricultural employment during school hours in connection with interstate or foreign commerce. Under the Sugar Act, if the producers are to obtain maximum benefits they may not employ children under 14, or permit those of 14 and 15 to work more than 8 hours a day, in the cultivation or harvesting of sugarbeets or sugarcane.

Mr. DOUGLAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOUGLAS. Is it the Prouty amendment or the Javits amendment which is before us for a vote?

The PRESIDING OFFICER. It is the Javits amendment. The Prouty amendment was withdrawn.

The question is on agreeing to the amendment of the Senator from New York. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Tennessee [Mr. BASS], the Senator from Idaho [Mr. CHURCH], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. HARRIS], the Senator from Missouri [Mr. LONG], the Senator from Montana [Mr. METCALF], the Senator from Oklahoma [Mr. MONRONEY], the Senator from Maine [Mr. MUSKIE], and the Senator

from Maryland [Mr. TYDINGS] are absent on official business.

I also announce that the Senator from Indiana [Mr. HARTKE] and the Senator from Arizona [Mr. HAYDEN] are necessarily absent.

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from California [Mr. MURPHY] are absent because of illness.

The Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK] are absent on official business.

The Senator from Idaho [Mr. JORDAN] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

If present and voting, the Senator from Utah [Mr. BENNETT], the Senator from Idaho [Mr. JORDAN], and the Senator from Wyoming [Mr. SIMPSON] would each vote "nay."

On this vote, the Senator from Colorado [Mr. DOMINICK] is paired with the Senator from California [Mr. MURPHY].

The result was announced—yeas 31, nays 51, as follows:

[No. 224 Leg.]

YEAS—31

Boggs	Javits	Pastore
Burdick	Kennedy, Mass.	Pell
Case	Kennedy, N.Y.	Proxmire
Clark	Kuchel	Ribicoff
Dirksen	McCarthy	Saltonstall
Dodd	McGee	Scott
Douglas	McGovern	Smathers
Fong	McIntyre	Williams, N.J.
Gore	Mondale	Yarborough
Hart	Montoya	
Inouye	Nelson	

NAYS—51

Aiken	Griffin	Neuberger
Anderson	Hickenlooper	Pearson
Bayh	Hill	Prouty
Bible	Holland	Randolph
Brewster	Hruska	Robertson
Byrd, Va.	Jackson	Russell, S.C.
Byrd, W. Va.	Jordan, N.C.	Russell, Ga.
Cannon	Lausche	Smith
Carlson	Long, La.	Sparkman
Cooper	Magnuson	Stennis
Cotton	Mansfield	Symington
Curtis	McClellan	Talmadge
Eastland	Miller	Thurmond
Ellender	Morse	Tower
Ervin	Morton	Williams, Del.
Fannin	Moss	Young, N. Dak.
Fulbright	Mundt	Young, Ohio

NOT VOTING—18

Allott	Gruening	Metcalf
Bartlett	Harris	Monroney
Bass	Hartke	Murphy
Bennett	Hayden	Muskie
Church	Jordan, Idaho	Simpson
Dominick	Long, Mo.	Tydings

So Mr. JAVITS' amendment (No. 759) was rejected.

Mr. MORSE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. YARBOROUGH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERTSON. Mr. President, I call up my amendment, No. 773, relating to the exemption of recreational hotels, and ask that it be stated.

The PRESIDING OFFICER. The Chamber will come to order. After the Chamber is in order, the clerk will state the amendment. Let there be order in the Senate.

The amendment will be stated.

The legislative clerk read as follows:

On page 40, line 25, after the comma insert the following: "including any hotel patronized by a majority of its guests primarily for recreational purposes."

On page 41, line 3, strike out "average" and substitute "actual".

On page 41, line 3, strike out "six" and substitute "five".

On page 41, line 5, strike out "average" and substitute "actual".

On page 41, line 5, strike out "six" and substitute "seven".

Mr. ROBERTSON. Mr. President, I yield myself such time as I may need. I shall not need much time.

This is a simple amendment. It was fully explained yesterday. The only addition in my amendment, which is offered as a substitute for the amendment of yesterday, arises from the issue that arose yesterday as to whether the amendment was being offered at the right place in the bill. I replied that it must be the right place because the manager of the bill in the House had told the distinguished Representative from Arizona that the word "recreational" in section 201 included recreational hotels.

I took the matter to the experts in our drafting service, and they said that this is the proper place at which to offer the amendment. However, to make assurance doubly sure, it was suggested that after the word "recreational," the following language be inserted:

Including any hotel patronized by a majority of its guests primarily for recreational purposes.

Mr. President, Virginia has recreational hotels that operate on a very expensive basis.

The PRESIDING OFFICER. The Senator will suspend until the Chamber is in order. The aids who have no business in the Senate Chamber will please leave. Senators who desire to confer will retire to the cloakroom. The pages will refrain from any conversation. Visitors in the gallery will refrain from any audible noise.

The Senator may proceed.

Mr. ROBERTSON. Mr. President, these recreational hotels are not competitive with commercial hotels in the cities. It is a physical impossibility to have a recreational hotel, within my meaning of the term, in a city. A typical example is the Homestead Hotel, at Hot Springs, Va.

That hotel has not only one golf course, it has three. It has 10 miles of restocked trout streams. It has a wonderful skeet range. It has wonderful swimming pools. It has bridle paths that wind in and out of all those beautiful mountains. It has one of the best stables of riding horses in Virginia, and in the wintertime it has skiing.

That is what I call a recreational hotel. And it is not cheap. One cannot stay there for less than \$40 a day, and if he wants to splurge a little, he can pay \$60 a day and up. The hotel can only accommodate 600 people, but it now has a thousand employees to wait on those people. That costs real money. But it is the only enterprise in that little mountain county of Bath.

In my home county of Rock Ridge, there is a natural wonder called Natural Bridge, which many people go there to see. They have wonderful swimming there. They have a skating rink in the winter time. They have a golf course. They have hiking trails through the beautiful Blue Ridge Mountains.

They are not in competition with the commercial hotels, but they are in competition with resort and recreational hotels in Bermuda and other offshore islands. One can get to Bermuda and the offshore islands quicker in a jet plane than from New York to Hot Springs, Va., by train. The cost of operating a business in those places is far below ours.

If we just keep pressing the costs up, it will not only affect the waiters who get good tips, but also all the other employees necessary to operate a bona fide recreational hotel.

This is the test: Over one-half of the people must come there for recreational purposes. That eliminates the city hotels, and it eliminates the convention hotels. It is recreational.

I do not know how many hundreds of millions of dollars we have been spending for recreational purposes. We have 175 million acres of national forests which are being developed for recreational purposes. We have 73 million acres of national parks. Yellowstone is the foremost national park in the world for recreational purposes. We spend millions of dollars on trout hatcheries, Federal and State, to stock the streams for recreational purposes. Recently, when I found that swimming pools of nearby military establishments were being used for the District of Columbia, excluding the military personnel from them for 2 days of the week, I inquired how many swimming pools there are in the District of Columbia. There are 12 to 14 public swimming pools, and they say that they do not have nearly enough.

The hotels have swimming pools. If one is rich and does not mind spending \$40 to \$60 a day, he can swim there and do other things. Not many of these hotels are left. We are proposing to make their competition with foreign-owned resort hotels easier. If these hotels are forced to increase rates above what they are now, our hotels will gradually lose patronage, and those who are employed will lose dollars.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield.

Mr. PASTORE. Is the Senator saying that a hotel that is affluent enough to charge a patron \$60 a day cannot pay a worker \$50 a week? Do I understand the Senator correctly?

Mr. ROBERTSON. That is not the issue at all.

Mr. PASTORE. Well, what is the issue?

Mr. ROBERTSON. The issue is that a great many people working at the hotels get tips, and these people will not be covered by this bill. The waiters, of course, are making about \$150 a week, all of them colored boys. Nearly all the employees at this hotel, incidentally, are colored. None of them have been moved out, and I hope they are not. We are

proud of the fact. They are all well trained, and all give good service.

The hotels cannot increase the pay of everybody. Once they start paying a man more than he is now getting, the salary of everybody above him must be raised. Make no mistake about that. Not many are involved here.

I hope the distinguished manager of the bill will take this amendment to conference.

I reserve the remainder of my time. Mr. YARBOROUGH. Mr. President, I yield myself 7½ minutes.

Mr. President, this amendment introduces a new exemption into the bill that is not presently in the law. It is opposed by the Department of Labor, it is opposed by the administration, and it is of necessity opposed by the managers of the bill. We fought this matter out thoroughly in the subcommittee and in the full committee.

Under the bill now before the Senate, hotels for the first time are brought under the coverage of the minimum wage law, but there is no requirement for overtime. If an employee works 12 hours a day, he gets the straight wages. There is no requirement that he receive time and one-half for overtime.

The proposed amendment would expand the exemption in this section for amusement or recreational establishments. We have an exemption in the bill for amusement parks. But this amendment would expand that language by excluding hotels under the definition "patronized by a majority of its guests primarily for recreational purposes," and it would revise the seasonal test for these recreational establishments by providing that during the low 5 months, the average receipts could not exceed one-quarter of the annual receipts. Under the present bill, the receipts for the low 6 months could not exceed one-third of the annual receipts. It would change the test for the seasonal nature of the operation.

The express inclusion of hotels in this exemption, together with the relaxation of the test of seasonability, would broaden the exemption considerably beyond that which was worked out in hearings and many days of debate in the subcommittee and many days of debate in the full committee. It poses administrative problems that the administrators of this law, the wages and hours people, do not want cast upon them.

The proposed amendment refers to guests being at the hotel primarily for recreational purposes.

Many men who attend conventions at hotels take their wives with them. The wives do not participate in the convention, and are there for recreational purposes, and the husband is there for business purposes. There are bar conventions and medical conventions at which the members attend seminars and meetings. On their income tax returns, they claim the cost of attending these conventions as a business expense. If a convention were to be held in the mountains, and the hotel were to say that it is a recreational hotel only, and guests were there for business and wanted to

deduct the expenses on their income tax returns, confusion would occur between the minimum-wage laws and other laws.

I believe we would open more Pandora's boxes with the proposed amendment than we could possibly close.

As to the factual application, census data indicate a trend for resort hotels to operate for longer periods of time each year. That is because in hot areas air conditioning has been developed. Also, some southern hotels are now manufacturing artificial snow for skiing and are installing ski lifts.

Since 1958, the number of hotels and motels has increased by 10 percent, but the number operating less than 9 months has decreased by about 10 percent. Newspaper advertisements in the travel sections of the newspapers show that in the Miami area and in other southern beach vacation areas resort hotels are now open the year round. We heard much about that during the debate in connection with the airlines strike. We were told that Miami hotels were suffering in the summertime because of a discontinuance of airlines traffic.

The Department of Labor's survey showed that the average straight-time hourly rate of pay for nonsupervisory employees in resort hotels and motels having \$250,000 or more in annual sales was \$1.25 an hour in June 1963. That rate has gone up. The rate in some hotels of that size, except for tipped employees, is above that wage. Nontipped employees were paid an average rate of \$1.38 an hour; tipped employees, 78 cents an hour.

So the rate would apply only to tipped employees rather than to nontipped.

The minimum rate in hotels would start next year at \$1 an hour only. The average is far above that rate already, except for tipped employees in hotels such as that described by the Senator from Virginia, where tipped employees are getting \$150 a week now. Certainly such a hotel would not be affected, because the earnings are far above the minimum wage of \$1 an hour for a 40-hour week, 8 hours a day.

The fact that there is no overtime requirement in the bill is of benefit to hotels, so we believe we have reason to feel that we have taken care of their interests and those of their employees, as well.

The percentage of employees working over 40 hours a week in a resort hotel with an annual gross income of \$250,000 was 72 percent. It might work a hardship if we had overtime on that, but there is no overtime. Thirty-two percent of the employees worked exactly 48 hours a week. Six percent worked over 48 hours a week.

Mr. President, I recommend, on behalf of the committee, that the amendment not be accepted.

Mr. RANDOLPH. Mr. President, the Senator from Virginia has had a knowledgeable interest in the subject presented. I know of his desire to help at least one hotel that he feels falls in this category in old Virginia. We have a hotel that in some particulars would fall within that same classification in West Virginia. There are other hotels that, in

a sense, are what we call remote. But today the remoteness of a hotel is not what it was 10, 15, 20, or 25 years ago with our forms of transportation, with scheduled airlines and charter airline flights coming in to these areas, and with improvement of roads, and in some instances a partial service by rail. We note what the Senator from Texas has correctly said: that these hotels are becoming year-around operations rather than, as formerly, operations on a seasonal basis.

The Senator from Texas [Mr. YARBOROUGH] will recall that I discussed such hotels at some length in the subcommittee and in the full committee because I felt that it was important to consider the hotels and the resort areas that might fall into such a category.

The PRESIDING OFFICER. The 7½ minutes which the Senator from Texas yielded to himself has expired.

Mr. YARBOROUGH. Mr. President, I yield 2½ minutes, or such time as the Senator may desire.

The PRESIDING OFFICER. The Senator is recognized for additional time.

Mr. RANDOLPH. Mr. President, in a desire to be helpful in such a manner as would be helpful generally in the restaurant and hotel industry, I offered the amendment to raise tip credit from 45 percent to 50 percent, as we will note on page 13 of the report. The Senator from Texas will recall that this was done.

Mr. YARBOROUGH. Yes.

Mr. RANDOLPH. That was done because here, in a real sense, there is the partnership between the employer and the employee; and we are helping the partnership to operate by being fair to the employee in connection with tips.

I shall read from the report:

The bill's tip provisions provide enough flexibility to account for a practice as inconsistent as tipping.

I shall read further:

It should also be noted that at present "wages" include the reasonable cost of board, lodging, and other facilities customarily provided by the employer to his employees.

As the Senator from Virginia and the Senator from Texas well know, in the resort-type hotels in what were once remote mountainous areas, and even perhaps along the shore line in New England, a considerable number of the employees stay on the property. This is not true of a city hotel, because the employees live in their own apartments or houses. So we have included this provision, which helps with reasonable allowances for the lodging and food furnished by the hotel.

In committee, the Senator from Vermont also was conscious of this problem as it affected his State, as were other Senators.

I feel that as to the amendment which I offered, and which was accepted, providing an increase in tip credit from 45 percent to 50 percent, and considering the reasonableness of an allowance for lodging and food being included as wages, the committee has been eminently fair. I wish to say this to the Senator from Virginia, who has his amendment on the floor of the Senate for consideration.

Mr. YARBOROUGH. Mr. President, I thank the distinguished Senator from West Virginia for his fine contribution in clarifying this matter.

As stated by him, his amendment was accepted in committee to help to clarify this matter and to improve the status of all hotels. At that time we discussed White Sulphur Springs, an area which provides similar facilities. We discussed resorts in the areas of the beaches and mountains. In response to the request of the distinguished Senator from West Virginia [Mr. RANDOLPH], this clarification was written into the report.

A question arose as to resort hotels. Many employees living on the premises receive lodging and benefits from other facilities. The hotels furnish laundry, meals, and lodging. Those are the three most commonly furnished facilities. All of that is counted as a part of the wages earned.

With the clarification as noted by the Senator, we have a reasonable bill in this regard.

Mr. SMATHERS. Mr. President, will the Senator yield 3 minutes to me?

Mr. YARBOROUGH. I yield 3 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 3 minutes.

Mr. SMATHERS. Mr. President, I support the amendment offered by the distinguished Senator from Virginia. However, my concern is not with the large hotels: The Fontainebleau, Hot Springs, Greenbrier, the Eden Roc, or other big hotels in my State or any other State. They are more than prepared to take care of themselves.

What concerns me most is the marginal hotel or the marginal motel which heretofore has not had to conform to or wrestle with the provisions of the Federal Fair Labor Standards Act or the minimum wage law. It is this general marginal group that worries me.

I understand that if they have gross income of less than \$250,000 a year they are not covered. But an establishment having a \$250,000 gross business a year would be covered. That is not a large amount for a hotel or a motel—certainly not for a hotel. If they had a \$300,000 business and only a \$5,000 net profit, they would fall under the provisions of the present bill.

I fear that we are going to bring about greater difficulty for this small, marginal type of hotel and motel. All that we would do would be to make it possible for big hotels and big chains to get bigger. For the small will have to sell out—become victims of the merger wave. We hear much discussion in the Senate about wanting to help small business people. Yet we pass laws, the end result of which is that the small man, the marginal man cannot compete. What does he have to do? He has to sell to a bigger business. The result is that the big chains get bigger and bigger, while we in Congress talk about helping the small businessman. The small businessman has to compete, so what does he do? He has to get rid of his employees and go to automation. On top of the difficulty he is first faced with, he finds that the employees do not like it, and they begin to lose their jobs. That is why most of the

mail that I have had from the State of Florida—where a large number of hotels and motels operate under the minimum wage law—comes from the employees; it does not come from the owners of the hotels—and the employees of hotels and motels do not want this extension. The employees say they are finally going to be included, that they are finally going to lose their jobs. Thus, it is for that reason I would like to think that the Senate—it will not—but I would like to think the Senate would support the amendment of the able Senator from Virginia. I believe that the time has come when we must not continue to inject Federal control and Federal standards into every facet of our national life—large or small. The large ones can take care of themselves.

The PRESIDING OFFICER. The time of the Senator from Florida has expired.

Mr. SMATHERS. But in the little ones, the small hotels and the small motels, the employees will be the ones who will be most grievously injured—for they will lose their jobs.

Mr. YARBOROUGH. Mr. President, I yield myself 2 minutes in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 minutes.

Mr. YARBOROUGH. Mr. President, something has been said about the small motel and the small hotel.

When I drive home to Texas from Washington every year, I spend at least 1 night in the valley of Virginia, the State represented by the distinguished Senator from Virginia [Mr. ROBERTSON], 1 night going and 1 night coming back. There is one motel I have always stayed in. It has about 20 rooms. I remember one time that the Senator from Mississippi [Mr. EASTLAND] was staying there when I arrived, and on another occasion the Senator from Virginia was staying there.

Counting up a hotel or motel with 50 rooms rented at \$10 a room per night—that is about what they charge—and based upon the fact that those rooms are rented every night for 365 days in the year, the gross income would be \$182,500. That motel, therefore, would never come under the law, as the next year the gross income must be over half a million dollars before the law would apply.

After 2 more years, then it is dropped to \$250,000. Thus, if they had 50 rooms at \$10 a room per night—and, of course, it could be raised, it could be more than \$10, or say there were 40 rooms at \$10 per room per night—this law would not apply to that size hotel or motel. The small operators will not be affected.

Mr. SMATHERS. About how long does the Senator think this law will be kept to the limitation of \$250,000?

Mr. YARBOROUGH. A long, long time.

Mr. SMATHERS. Is the Senator going to give us the benefit of his assurance, that so long as he is a Senator that limitation will not be lowered?

Mr. YARBOROUGH. I cannot tell what Congress might do, even next January. Things change. Sometimes Congress does not wait 2 years.

Mr. SMATHERS. That is exactly the problem.

The PRESIDING OFFICER. The time of the Senator from Texas has expired. Who yields time?

Mr. ROBERTSON. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 2 minutes.

Mr. ROBERTSON. Mr. President, in attempting to make a fair appraisal of new proposals, I am handicapped by two things: First, I was here when some of these proposals were first suggested. Second, I have a painfully good memory.

I can recall, in the early proposals, that the proponents admitted what they were going to do to us in the end. We had a long debate when the wage-hour bill was first discussed. No one ever dreamed that it would apply to agriculture. No one ever dreamed that it would apply to hotels or motels. But, first one and then the other thing gets coming in, and now we bring in 1.5 to 2 million new workers. We cut down on the pulpwood. Eventually, they will all be covered, as the distinguished Senator from Florida [Mr. SMATHERS] stated on yesterday, that while we are putting a few farmers in now, the precedent has been set and eventually all farmers will be covered.

We know that the Machinists Union have said, "\$4 an hour is not enough for us."

We know that the skilled workers in the United Automobile Workers Union have said, "\$4 an hour is not enough for us."

Who is to say, when the \$1.60 minimum wage becomes effective, and if, in the meantime, skilled workers will be getting \$4, \$5, or \$6 per hour, that they will not be saying, "\$1.60 an hour is not enough for us."

Mr. President, this bill is inflationary because every time we put the bottom man up, the man above him will demand equality of treatment. If the bottom man gets 50 cents an hour more, then the man above him will want 75 cents an hour more.

Mr. RUSSELL of Georgia. Mr. President will the Senator from Virginia yield?

Mr. ROBERTSON. I am happy to yield to the Senator from Georgia.

Mr. RUSSELL of Georgia. The Senator knows that over the years there has been a certain level or differential between people engaged in different kinds of work, and that each level is determined to maintain that differential. Thus, we cannot raise the man on the bottom without escalating all the way to the top to make adjustments or a greater wage proportionately.

Mr. ROBERTSON. The Senator is correct. I will admit that the Senator from West Virginia has got some softening provisions in here with his 50-cent tips, and living on the premises—

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. ROBERTSON. Mr. President, I yield myself 2 more minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 2 more minutes.

Mr. ROBERTSON. Mr. President, we are setting a precedent. I have been a Senator long enough to know what precedents do, once they have been established. I hope that Senators will not lose sight of that fact. Let me remind them of the maxim my grandfather used to recite:

The tendency of everything is to be more so.

Just get one of these programs started, and they will never end. I was in the House when social security was first enacted. Who said that would ever include medicare at that time? No one ever dreamed of that. And we are not through yet with medicare by any means, because there is a sleeper in it which is going to be implemented one day, which will include everyone. All our citizens will come under the program sooner or later.

They will all come under the medicare program sooner or later. Every time we expand a program and take in more, we lay the foundations for future expenditures.

Mr. SMATHERS. Mr. President, will the Senator from Virginia yield?

Mr. ROBERTSON. We are in competition, as I say, with Bermuda and the offshore hotels in the Caribbean operating way below us. Fortunately for Bermuda, it still operates under a system of private enterprise. The authorities do not try to regulate everything. In this country, we are moving more and more into the field of regulation, but it is a regulation based primarily of management and not of labor. Of course, our previous private enterprise system presupposed that the Government would be the umpire to see that the game was played fairly.

I am now happy to yield to the Senator from Florida.

Mr. SMATHERS. The Senator mentions Bermuda. Of course, there is a great deal of competition between the State of Florida and Bermuda. Many people coming to Florida also go on to the Caribbean, and to the Bahama Islands.

Would not the Senator agree that one of the net effects of this proposal as now written, would be to hurt our balance of payments position?

Mr. ROBERTSON. I think that is a feature. I think that it will hurt our resorts, recreation facilities, hotels and motels. Therefore, I was disappointed when the Senator in charge of the bill did not think it fitted.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. ROBERTSON. Mr. President, if any other Senator wishes more time on behalf of the amendment, I shall be glad to yield it.

Mr. SMATHERS. Mr. President, will the Senator from Virginia yield me 2 minutes?

Mr. ROBERTSON. I yield 2 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 2 minutes.

Mr. SMATHERS. I think everyone would agree that probably the most dan-

gerous economic condition and the worst economic factor which faces our country today is inflation. We are all talking about it. Yet, at the very time the fires of inflation are burning very brightly, I think all Senators will agree that what we are doing now is getting ready to pass a bill which will, in effect pour gasoline on the flames.

What are we doing if we don't amend this bill? We will be raising the base of nearly everyone's—at least 7 million new workers—base pay. When we do that, all those who work above the man at the bottom will want to maintain that difference that now exists above the man at the bottom. We will be increasing wages all over the Nation.

Thus, we will contribute to inflation which we are all talking about and trying to fight. We will be contributing to it by passing this kind of bill.

Further, we do not really do the employees any good because by having inflation we diminish the value of the dollar.

We have not heard a great deal from employees, who state they want this particular legislation. We find the people included do not want it although the bureaucrats want it because they will have more jobs open for them to administer, but the employees of hotels and motels are not asking for this particular kind and character of bill.

In addition to that, as I said a moment ago in my remarks to the Senator from Virginia, we are encouraging another error, a grievous error, to creep into our economic system, in that we are encouraging a greater imbalance of payments. Hotels are being built in the Caribbean and in Bermuda, and they are saying to our people, "Do not stop in Miami, or Florida, or Virginia, or other places in the United States, but come to these out-of-the-way places." So overseas people spend their money out of the United States, and we continue to see a worsening of our balance-of-payments deficit.

It seems to me this is not the time to do it; this is not the place to do it. We have a high rate of wages in this country, and I am delighted that we have, but let us not force this on people who do not want it, particularly when the effect will be an increasing bureaucracy, a heated up inflation, and a worsening of our balance-of-payments deficit.

Mr. YARBOROUGH. Mr. President, I yield 2 minutes to the Senator from West Virginia [Mr. RANDOLPH].

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 2 minutes.

Mr. RANDOLPH. Mr. President, I had not desired to speak a second time on this subject, because I have been involved in this bill as reported out of committee, but when my colleagues begin to speak about the philosophy of the Fair Labor Standards Act and state that what it has done has not been good for the United States of America, I think of necessity I must speak in reply.

Why did the Fair Labor Standards Act come into being in 1938? It was enacted because of the substandard wages which were paid in the United States of America, and the excessively long hours work-

ers had to toil and the tragic conditions under which millions of men, women and children were working.

I recall the days when, in testimony before the Labor Committee of the House, there were those segments who said that the Fair Labor Standards Act would be injurious to business and industry in this country.

Business and industry have not been injured by the original act, nor by the amendments to that act, nor will they be injured by the pending amendments to the Fair Labor Standards Act.

I think it is important to realize that the take-home pay of men and women in business and industry in the United States today is greater than it has ever been in the history of the country. And on the industry side, profits and productivity continue to rise. To say that we are fanning the flames of inflation, that we will be destroying the economic base of our country through the passage of such an act, is not a fact. The history proves otherwise.

Mr. SMATHERS. Mr. President, will the Senator yield me 2 minutes?

Mr. ROBERTSON. I yield 2 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 2 minutes.

Mr. SMATHERS. Mr. President, I do not want to be put in the position of having stated I have never voted for the Fair Labor Standards Act, because I have. My statement was that this extension of the act to include 7 million new employees is not the proper time to do it now. I have not made any criticism of the effect that the Fair Labor Standards Act has had on General Motors, or Ford Motor Co., or general industry, or even mining. I am merely saying that the amendment of the act introduced at this time is not timely. Surely we all recognize that we have inflation. Surely every Senator recognizes that if we raise the wage of certain groups of employees, we will contribute to inflation. Surely the Senator from West Virginia recognizes that if we contribute to inflation, the value of the dollar is cheapened. When that is done, we do not help the employee.

So far as the overall philosophy of the Fair Labor Standards Act is concerned, I do not want to see the statement attributed to me that I am opposed to it. I am opposed to the extension of it to others at this time because it will contribute to inflation and to our balance-of-payments deficit.

Mr. RANDOLPH. Mr. President, will the Senator yield me 2 minutes?

Mr. YARBOROUGH. I yield 2 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 2 minutes.

Mr. RANDOLPH. It would not be the desire of the Senator from West Virginia to misinterpret the words of my friend from Florida. I think a reading of the RECORD will not show what he has indicated. I do not say how he has voted or what his philosophy is; I only apply my statement to what we are considering here today. I well remember that we

heard the same arguments made in 1938—

Mr. SMATHERS. Did we have inflation in 1938?

Mr. RANDOLPH. I will not say when we had or did not have inflation, but the inflation of today is not nearly what it was a few years ago, under another administration—and I am not going to get into politics at this moment (laughter)—but I do desire to say that the arguments against the Fair Labor Standards Act originally and at all points when it has been amended have been the same arguments.

I felt it necessary, in good conscience and good humor, to point out that I felt the basic philosophy of the Fair Labor Standards Act was sound.

The Senator from Virginia has indicated he does not feel the philosophy of the Fair Labor Standards Act has been helpful to the country. I accord to him his sincerity in what he believes, as I accord to the Senator from Florida his sincerity in his belief; but there must be an indication here that, by and large, Congress, in passing the legislation and in extending the legislation is doing what is helpful to America.

Mr. YARBOROUGH. Mr. President, I yield back my time.

Mr. ROBERTSON. Mr. President, I yield back my time.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia. All time on the amendment has been yielded back. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Tennessee [Mr. BASS], the Senator from Idaho [Mr. CHURCH], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. HARRIS], the Senator from New York [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Montana [Mr. METCALF], the Senator from Oklahoma [Mr. MONRONEY], and the Senator from Maine [Mr. MUSKIE] are absent on official business.

I also announce that the Senator from Indiana [Mr. HARTKE], the Senator from Arizona [Mr. HAYDEN], the Senator from Minnesota [Mr. MCCARTHY], and the Senator from Georgia [Mr. RUSSELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], the Senator from Alaska [Mr. GRUENING], the Senator from New York [Mr. KENNEDY], and the Senator from Missouri [Mr. LONG] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from California [Mr. MURPHY] are absent because of illness.

The Senators from Colorado [Mr. ALLOTT] and Mr. DOMINICK] are absent on official business.

The Senator from Idaho [Mr. JORDAN] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

If present and voting, the Senator from Colorado [Mr. DOMINICK], the Senator from Utah [Mr. BENNETT], the Senator from Idaho [Mr. JORDAN], the Senator from California [Mr. MURPHY], and the Senator from Wyoming [Mr. SIMPSON] would each vote "yea."

The result was announced—yeas 31, nays 49, as follows:

[No. 225 Leg.]

YEAS—31

Byrd, Va.	Hill	Russell, S.C.
Carlson	Holland	Scott
Cotton	Hruska	Smathers
Curtis	Jordan, N.C.	Sparkman
Dirksen	Long, La.	Stennis
Eastland	McClellan	Talmadge
Ellender	McIntyre	Thurmond
Ervin	Miller	Tower
Fannin	Moss	Young, N. Dak.
Fulbright	Mundt	
Hickenlooper	Robertson	

NAYS—49

Aiken	Hart	Pastore
Anderson	Inouye	Pearson
Bayh	Jackson	Pell
Bible	Javits	Prouty
Boggs	Kennedy, Mass.	Proxmire
Brewster	Kuchel	Randolph
Burdick	Lausche	Ribicoff
Byrd, W. Va.	Magnuson	Saltonstall
Cannon	Mansfield	Smith
Case	McGee	Symington
Clark	McGovern	Tydings
Cooper	Mondale	Williams, N.J.
Dodd	Montoya	Williams, Del.
Douglas	Morse	Yarborough
Fong	Morton	Young, Ohio
Gore	Nelson	
Griffin	Neuberger	

NOT VOTING—20

Allott	Harris	Metcalf
Bartlett	Hartke	Monroney
Bass	Hayden	Murphy
Bennett	Jordan, Idaho	Muskie
Church	Kennedy, N.Y.	Russell, Ga.
Dominick	Long, Mo.	Simpson
Gruening	McCarthy	

So Mr. ROBERTSON's amendment was rejected.

Mr. ROBERTSON. Mr. President, I am opposed to this fair labor standards bill because I think it will be self-defeating in its effects. I am afraid it will stimulate the forces of inflation that are causing the cost of living to soar, and that in the end it will deprive many unskilled workers of jobs they otherwise could obtain.

You cannot push up the minimum wage rates in any line of work without creating pressure to raise those above the minimum. For that reason, this bill will tend to wipe out the guidelines the administration has been trying to adhere to on wages.

The inclusion of 390,000 agricultural workers will, I believe, only lead to further mechanization of farms, with a resulting loss in job opportunities.

And, as was pointed out by Senator HOLLAND, it is a forerunner of a move to apply the minimum wage to all farmworkers, to be followed, of course, by their unionization.

More and more the Government is encroaching upon a rather unique and vital principle of our representative democracy—private enterprise. The framers of our Constitution in embodying private enterprise in that great document intended that the Government would be only an umpire of fair play between management and labor. The pending bill is an evidence of a modern trend in the direction of a managed economy—a poor substitute for private

enterprise and doomed to failure when it controls management but not labor.

Mr. ELLENDER. Mr. President, I ask unanimous consent that the names of the distinguished senior Senator from Florida [Mr. HOLLAND] and the distinguished junior Senator from Colorado [Mr. DOMINICK] be added as cosponsors of my amendment No. 761.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ELLENDER. Mr. President, I call up my amendment No. 761 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 44, before the semicolon in line 24, insert a comma and the following: "Or in the processing of sugar beets, sugar beet molasses, sugar cane, or maple sap, into sugar (other than refined sugar) or syrup".

Mr. ELLENDER. Mr. President, my amendment to the committee bill would provide for an exemption from overtime for sugar mills similar to that provided in the bill for cotton gins.

In order to explain why this exemption is needed, I must review with you the nature of the sugarcane processing operation.

The processing of cane is a highly seasonal operation. It starts as soon as the sucrose content of the cane reaches 11.5 to 12 percent, which is generally about the 10th to the 15th of October. Actually, growers would prefer to delay harvest longer to allow the sucrose content to reach its maximum. However, this is impossible if mill facilities are to be used to a maximum—and because of the ever-present danger of excessive rainfall which bogs down the harvest operation.

The harvest season continues until the first major freeze. This may occur in December. If farmers are lucky, the first major freeze may be in January. When the first major freeze hits, the sucrose begins to change its chemical nature—in effect, to sour. Some sugarcane is harvested for a few days after the first major freeze—but this is in the nature of a salvage operation, and the recoverable sucrose is reduced, and within a relatively short time, all harvest operations cease.

As the sugarcane is harvested, it is delivered to the sugar mill where it is converted into raw sugar. The cane must be processed within about 24 hours after delivery to the mill. Otherwise, the sucrose content changes in form and cannot be recovered.

When the milling season starts until it is finished, the effort to get cane harvested and milled is a struggle that involves the whole community. Farmers and farmworkers work from dawn to dusk 7 days a week, unless excessive rainfall bogs the harvest operation down. The mills work 24 hours a day, 7 days a week a handle the cane as it is delivered.

The crucial problem in this annual battle is labor supply. Both farmers and mills need seasonal workers at the same time. This involves recruiting all the local labor supply—small farmers, members of farm families and others—in the

cane-producing area and in surrounding communities.

A sugar mill has two distinct groups of employees. First is the skilled worker and supervisory people who are employed the year around, even though for substantial periods during the year, there is comparatively little work to be performed. Second, is the seasonal work force that is employed for periods of a few weeks up to 2½ months.

I do not see any way for this operation to proceed on an efficient basis except by working long hours during the harvest and milling season. Even though mills would want to reduce the weekly work period, a sufficient work force of either skilled or seasonal workers is simply not available in the area.

To impose on this arrangement a requirement that overtime must be paid after 48 hours or after 52 hours would be highly disruptive. The cost of the mills and to farmers would be excessive. At present, a farmer is paid on a 60–40 share basis for the sugar that is sold after processing. The farmer receives 60 percent and the mill 40 percent. Any increase in operating costs to the mills reflects an increased cost to the farmer. The share of the proceeds from the raw sugar will be less to the farmer due to the increase in operating costs brought about by increased wages at the mill level.

In the short run, some people—those who were paid the overtime wage—would be benefited.

But this would be a short-run situation. The costs of overtime would be so heavy that mills would have no alternative but to make heavy investments in labor-saving technology. This can be done, but it will be a major project over a period of years. I am not sure that all the mills could acquire the necessary capital and would be forced out of business. The processing of cane would be concentrated in a smaller number of large processors.

Under these circumstances, it seems to me that the extension of overtime to mills would create tremendous problems and would do more harm than good.

Mr. YARBOROUGH. Mr. President, the distinguished senior Senator from Louisiana has explained the amendment in detail to the manager of the bill. After consultation with the senior Senator from Louisiana, I am prepared to accept the amendment.

The PRESIDING OFFICER. Do the Senators yield back the remainder of their time?

Mr. ELLENDER. Mr. President, I yield back the remainder of my time.

Mr. YARBOROUGH. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. DIRKSEN. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. PROXMIER in the chair). The amendment will be stated.

The assistant legislative clerk read as follows:

On page 36, lines 23 and 24, strike out "during the period February 1, 1967, through January 31, 1969."

On page 37 strike out all after parenthesis on line 5 down through line 9.

Mr. DIRKSEN. Mr. President, I wish to make perfectly clear what this amendment would do.

The PRESIDING OFFICER. The Senator will suspend until the Chamber is in order.

The Senate will be in order. Those who desire to confer will retire to the cloakroom.

The Senator may proceed.

Mr. DIRKSEN. Mr. President, under the committee bill, beginning in February 1969, the so-called floor which would either put a business in commerce and under the bill or not would be dropped to \$250,000.

The pending amendment would retain it at \$500,000 for that continuing period. It would be effective as of February 1, 1969.

I might say, preliminarily, that when I was a member of the Committee on Labor and Public Welfare in 1961, and the very distinguished Arthur Goldberg was Secretary of Labor, we had long discussions about putting the dollar sign on the commerce clause of the Constitution.

I thought it was an astonishing thing that those having an annual volume of \$249,000 would not be under the commerce clause, but if they had an annual gross of \$250,000 they would be under the Constitution.

At the time this controversy and discussion took place, I recall that one of the distinguished members of the staff of the American Federation of Labor was present.

I mentioned, in the presence of the Secretary, that this representative of the AFL-CIO had been before the House committee just a few days before and indicated that their ultimate goal was to drop that limit to \$100,000, so that any enterprise in which one had \$100,000 of annual volume would come within the purview of the act and the purview of the commerce clause.

I then said to the then Secretary of Labor:

Why not just wipe it out altogether and let the long arm of Uncle Sam embrace every business, large and small, regardless of the nature of the business and regardless of its volume?

I forget whether I got a facetious answer at that time, but it runs through my mind that there was an off-the-record answer to the effect that that was what they were going to strive to secure before they got through.

We set that limit at \$1 million so that those with a volume of less than \$1 million would not be covered by the bill and those with a volume of over \$1 million would be covered.

We have now seen that limit drop to \$500,000. In the present bill it is proposed to drop it to \$250,000 beginning on February 1, 1969.

That would be three pieces of the dog's tail. There will probably be only two pieces remaining, perhaps only one. Then the dog's tail will be gone, and Uncle Sam will have intruded immedi-

ately into every business enterprise from the Atlantic to the Pacific and from the Dominion to the gulf.

Mr. President, that was not intended when the Wage and Hour Act was enacted. Before talking a little about my amendment, I want to go back and make a few observations about the late Franklin Roosevelt who first proposed the Wage and Hour Act, and when he did so he stated:

There are many purely local pursuits and services which no Federal legislation can effectively cover. No State is justified in sitting idly by and expecting the Federal government to meet State responsibility for those labor conditions.

That was the late Franklin Roosevelt speaking when the Wage and Hour Act was first put on the Federal statute books.

Then that very distinguished former Senator of the U.S. Senate, and presently an Associate Justice of the Supreme Court—Justice Hugo Black—advised the Senate, as the manager of the bill:

Business of a purely local type which serve a particular local community * * * can be better regulated by the laws of the community and of the States.

The House report on the original measure said:

The bill carefully excludes from its scope business in the several States that is of a purely local nature.

This committee-approved bill now under consideration will bring under Federal control almost every retail and service establishment in the country. There is no need for me to recite the basis of this conclusion, I am sure, because every Member of this body has received rather impassioned pleas from his constituents, asking nothing more than the chance to survive.

We are now coming full circle, and putting everything under Federal control.

Mr. President, I made reference to the committee-approved bill. It was reported by the committee the day before yesterday. I scolded a little at the time, because neither I nor my staff could obtain copies, and we could obtain no report, because at the time the report was not ready.

It is not easy to attempt to digest a bill of this kind, with its many complications, in the short time that was available for its examination. But an examination of the hearings indicates that they were conducted over a year ago. Obviously, they could not take into account whatever changes in the economy have occurred in the last year.

Consider the increase in the cost of living. And what of that malady that stalks the land—inflation? What effect will wage increases provided in this bill have? I am advised that requests were made to have public hearings after the message was received from the House on May 27, so as to consider these matters, but no hearings were held.

We cannot close our eyes to reality. This administration, aware of the dangers of inflation, seeking to hold wages and prices in line, announced guidelines of 3.2 percent as a maximum for wage and price increases. But here

we have legislation that will increase wages by almost 30 percent, and it will shove prices up by 5 to 10 percent. That is pretty far from the guidelines that were set down by the distinguished President of the United States, who was formerly a Member of this body.

We fret and worry about finding employment for unskilled and untrained person who is unable to find employment at \$1.25 an hour more likely to find it at \$1.40 or \$1.60? These are facts that must be faced. Employers who cannot afford unskilled labor at \$1.25 certainly cannot afford it at \$1.40 or \$1.60.

Then, Mr. President, where will this adverse effect on employment be felt most? Why, obviously, by the very group that needs employment the most—the unskilled Negro teenager. The President's manpower expert noted that 18 percent of the young people who will be looking for work in the next 5 years will be Negroes, even though they constitute only 10 percent of the population.

In 1964, according to the Labor Department, 23 1/3 percent of the male nonwhite teenagers and 30.6 percent of the females could not find employment. Will passage of this bill reduce this appalling unemployment figure? The cruel facts of economic life provide a disappointing answer.

Approval of this measure will increase, not decrease, that rate of employment. Denied membership in most unions, where industry wage scales are much higher than those provided in this bill, the unemployed Negro must look to the very businesses covered by this bill, many for the first time, for their first employment. If they cannot presently find employment at \$1.25 per hour, will their prospects be better when the rate is fixed at \$1.40 an hour or \$1.60 an hour?

Many distinguished economists have made studies of the effect that increases in the minimum wage have on unemployment. Their conclusions for the most part have been the same. They found that each time the minimum is extended to cover additional employment, thousands of people are denied job opportunities. A 1964 study by Professor Brozen, of the University of Chicago, furnishes evidence of this effect. He tested the hypothesis that employment will increase in private household employment, one of the few completely excluded occupations, each time the wage floor is raised in covered occupations or coverage is increased. He found that, with respect to increases in 1950, 1956, 1961, and 1963:

In each instance when the minimum wage rate rose the number of persons employed as household workers rose. The rise was not the result of unemployed household workers finding jobs since there was also a rise in the percentage of household workers unemployed in each instance (except 1961-62, when the decline in unemployment percentage accounts for only 15 percent of the rise).

Other empirical studies have reached the same kind of conclusion. The irrefutable fact is that the Congress by passing a law can no more make a person's labor worth \$1.25, \$1.40, or \$1.60 an hour than it can effectively repeal the law of gravity.

In this connection, Mr. President, let me illustrate how the proposed bill would

affect three entirely unrelated businesses. These are representative businesses. One happens to be in Illinois, one in Massachusetts, and one in Louisiana; but the problem they have is the same, and the effect will be equally applicable in any similar business throughout the country.

The first is a medium size store in downstate Illinois that last year had net sales of \$3,397,134. The net profit for the store before Federal income taxes was \$97,077; the payroll amounted to \$657,219. Under the measure under consideration, there will be a minimum wage of \$1.60 an hour, which is a 35 cents per hour increase over the present minimum wage. The net result is an annual increase of \$728 per year per employee, for all employees, because the present salary differential must be maintained in the interest of satisfactory employee relations. This increase of \$728 a year results in an increase in payroll amounting to \$189,280. The result will be a loss of \$92,203.

The second business involves a distributing company in Louisiana. Let me quote in part from that letter:

I operate two businesses, one of them is a Union affiliate, the other is not. In both businesses, we pay exactly the same wages, \$1.30 an hour with time and a half for overtime. Most of my men are Negroes, working 50 to 55 hours a week and earning anywhere from \$71.50 a week to \$81.25 per week. In our area there are substantial wages for men, who in many cases can neither read nor write. The nature of our business (a distribution business) is such that they leave at 7:00 in the morning and check in at anywhere from 5 to 6 or 6:30 in the evening. It is impossible in our form of business to add help in order to lower the overtime or drop an employee off of a route because we drive as far as 75 to 100 miles from the warehouse every day. Raising the minimum wage to \$1.40 would immediately increase our expenses at least \$6,000.00 per year . . . and the nature of the business is so competitive that we cannot make up this differential by price raises. The nature of our business further does not allow a 40 hour week and yet I think the average Congressman any many Senators consider only the minimum wage in terms of a 40 hour week . . . a very misleading figure in our business.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. SALTONSTALL. Mr. President, I am from New England, from the State of Massachusetts, and we have many small businesses. I am a member of the Committee on Small Business. I have been getting a number of letters from small business people in Massachusetts who employ many part-time employees.

If we increase these wages, and include them to come down to the \$250,000 level of gross income, it is going to put many of them out of business. It would make it very difficult for them and perhaps give the business to the big department stores and other big businesses, whereas, if we let them have the part-time employees and give the employees an opportunity for part-time work, it would allow the small businessman to stay in business.

Mr. DIRKSEN. I have an illustration from Massachusetts that I shall use.

Mr. SALTONSTALL. Then, my illustration is not too far out of tune.

Mr. DIRKSEN. The Senator is correct.

The third affects a different group of employees, the teenage group. In this letter from the supervisor of a dairy bar, the supervisor points out that over \$85,000 has been paid in the last 6 years to teenagers, most of whom use their earnings for furthering their education. However, the supervisor advises that, and again I quote from the letter:

However, with the minimum wage going up to \$1.60 then we will have no choice but to hire more experienced adult help. For with the minimum wage being raised to this high, believe me sir places such as ours will be overrun with adults looking for part-time help to supplement the family income.

And at \$1.60 an hour we would be better off to hire more experienced adults than to hire teens that you have to continually be telling them to do their work. Most, if not all ice cream, restaurants, discounts, in fact all small retail business, will I assure you feel the same way. The \$1.60 wage minimum is in effect a threat to jobs for teens next year.

This is the message:

Sir, at \$1.60 per hour we will be forced to hire less teens and more adults. I am already considering this for our own Dairy Bar. And we are only one of thousands of Ice Cream stores, restaurants, discounts, etc., and believe me we are all of the same thought.

Mr. SALTONSTALL. Does the Senator feel that \$500,000 is a fairer gross business limitation than \$250,000 a year?

Mr. DIRKSEN. Yes.

Mr. SALTONSTALL. He has to come down to \$500,000. Otherwise, it would put the small businessman out of business and leave the big department stores and dairy bars. Howard Johnson's, and so forth, as opposed to the small dairy bars and retail stores.

Mr. DIRKSEN. Now, Mr. President, I am going to give a far more compelling reason why I think that is true and I am going to illustrate it here. I want one of the page boys to come up to help me.

Now, Mr. President, let us consider one specific part of this measure—the extension of coverage to enterprises whose annual gross volume of sale beginning February 1, 1969, is not less than \$250,000. Here we reach down to the smallest entrepreneur and subject him to an array of Federal requirements that would confound all but the most skilled professionals in the wage-and-hour field.

Let me illustrate what these little employers will be expected to understand, these are the regulations and interpretations of regulations that will govern their every business move.

Mr. President, I was around here when we passed the Wage and Hour Act and I have been around here all these years when we have been plastering it with amendments. I wish to illustrate to the Senate what I mean when I talk about the volume of material.

I ask the page boy to take the end of this folded document and walk with it to the side door so that we may see it in its full, extended form.

Mr. President, this is the Wage-Hour Act proper. I am not speaking about interpretation. I am not speaking about

regulations. I am speaking now about substantive law. There it is, from one end to the other. That is what they have to be familiar with in order to keep abreast of it and make sure that they are not violating the law. [Laughter.]

Now, we turn to the next item. The next item is the Fair Labor Standards Act as applied to retailers of goods and services.

If I were vulgar, or given to lapsing into the vernacular, I would probably say, "Get a load of this."

This document has 93 pages in it. I ask the page boy to stretch out this fold of the document and walk with it to the side door so that we may see it in its extended form. [Laughter.]

Mr. LAUSCHE. What is it?

Mr. DIRKSEN. Regulations for retailers, the little grocery store; and, if you are going to run a grocery store, you had better be familiar with what is in there because you might wind up in jail.

I ask the page boy to take that to the front door. [Laughter.]

That is what you are expected to know. Overtime compensation. It is Interpretative Bulletin, part 778, and it contains the official interpretations with respect to meaning and application of the maximum hours and overtime pay requirements under the act.

Incidentally, I might say that we measured this document and I have forgotten how it stacks up with the Statue of Liberty, but it is 19 feet higher than Niagara Falls, and I understand that it would go around Jayne Mansfield's ample figure 65 times. [Laughter.]

Now, overtime compensation. There is no foolishness as to whether this is official. This publication conforms to the Code of Federal Regulations as of April 1, 1965, United States Department of Labor, W. Willard Wirtz, Secretary Wage and Hour and Public Contracts Division, Clarence T. Lundquist, Administrator, Washington, D.C.

If there is an overtime problem, there it is. [Laughter.]

We have been lecturing a long time about the heavy hand of government on business large and small. I brought the hand along, hundreds of hands, to show what gives here.

The next item defines the "Terms for Executive, Administrative, Professional, and Outside Salesmen." It is Regulations and Interpretations, part 541.

If you are in any line of business, all you have to know is what is in 35 pages and then you will know what to do about regulations for executive, administrative, professional, and outside salesmen.

I ask that the page boy take this end of this folded document and walk with it to the door so that we may see it, but he will have to hurry because nighttime is going to overtake us before we get through. [Laughter.] That is for overtime.

Mr. President, do I violate the Rules of the Senate by doing this?

The PRESIDING OFFICER. No, there is nothing in the rule book on this.

Mr. DIRKSEN. I am delighted.

Mr. President, here are four pages entitled "Authorization of Established Basic Rates for Computing Overtime

Pay." This is for establishing basic rates; only four pages. We got short-changed there. I ask the page boy to take one end of this folded document and walk with it as far as he can so that we may see it in its full, extended form. [Laughter.]

Now, to interpret those 4 pages, we have 11 more pages. Eleven pages to interpret four pages of basic rates. There it is [directing the page boy, as before]. [Laughter.]

Now I hold in my hand an interpretative bulletin, part 785, entitled "Hours Worked." All this has to be calculated when one is in the retail business. There it is [directing the page boy, as before]. [Laughter.] That is the full length of it.

That is ducky; is it not?

It is ducky, indeed, to be in the small retail business in this great land of the free today.

Uncle Sam sends these documents to us, and by implication says, "You had better comply or otherwise you may land in jail."

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. SALTONSTALL. Mr. President, will the Senator from Illinois yield?

Mr. DIRKSEN. Mr. President, I yield myself—

Mr. LAUSCHE. Give the Senator more time.

Mr. DIRKSEN. Mr. President, I yield myself 15 minutes on the bill; but first, a parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Illinois will state it.

Mr. DIRKSEN. How stands the time for me?

The PRESIDING OFFICER. The Senator has 225 minutes remaining on the bill.

Mr. MUNDT. Take it all.

Mr. DIRKSEN. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 15 minutes.

Mr. DIRKSEN. Senators, be of good cheer. I have plenty of time. [Laughter.]

I am delighted to yield to the Senator from Massachusetts.

Mr. SALTONSTALL. I should like to ask the distinguished Senator from Illinois if he has any figures as to the size of the small retailer who can take care of all this paperwork so that he can live up to the regulations?

Mr. DIRKSEN. Just think of all the little businesses throughout this country where the boss' daughter is possibly the bookkeeper, or where the wife does the bookkeeping in her spare time. They could not possibly afford lawyers. They could not possibly afford high-powered accountants in order to do this work. Therefore, they have to take a chance.

Back in 1961, I raised these questions in the Committee on Labor and Public Welfare. They told me that there were not enough lawyers in the rural areas of this country to ever advise the little businesses, that there were also not enough accountants. Therefore, they have to take a chance until they get into trouble.

Then, what do they do?

Why, they call up their Senator. They call up their Representative. I do not know how many times I have been called where little business has gotten into trouble. They call me up and say, "Go down there to that bureau and get me out of this difficulty." They did not even know that they were in any difficulty until the Government got after them.

But, we have not heard the last of it yet. Senators have viewed all this paperwork—all 212 feet of it. How would Senators like to get on the outside of this 212 feet of interpretation? They had better, if they wish to stay on the cozy side of the law.

Mr. President, here is part 516 entitled "Records To Be Covered by Employers." There they are. [Directing the page boy, as before.] [Laughter.]

Mr. President, that is not all. "Records To Be Kept by Employers"—this is still another. How would we like to take care of that in a little business? But we must, in order to stay out of jail.

It just cannot be done.

I remember the time when I tried to help a small coal mine operator out of a difficulty under the act, when he did not know he was in violation.

When we begin to build up the power of the Federal Government to reach into the little business structures of this country, every time I think of it, I think of Oliver Goldsmith's poem entitled "The Deserted Village." There is something lovely about that village. It was called "Sweet Auburn."

It goes like this:

Ill fares the land, to hast'ning ill a prey,
Where wealth accumulates, and men decay;
Princes and lords may flourish, or may fade;
A breath can make them, as a breath has made;

But a bold peasantry, their country's pride,
When once destroy'd, can never be supplied.

Mr. President, we do not use the word "peasant" any more in this country, but I think of it as being the solid middle class of America. It is somewhat analogous to the peasantry of Great Britain at one time, the people upon whose shoulders this country was built.

Thus, how are these small businesses going to survive? That is the reason these importunations come to us, on how to survive.

Many Senators have heard from their retailers. I know that I have heard from mine. I know a little something about retailing, a little more than normally, because I used to run a grocery store of my own and also a small bakery store. I know what it is to make reports and reports and reports to the point where one hardly has time to produce a business and build up enough volume to make a little profit.

Yes, Mr. President, the cry is one of "Survival." That is what is happening here. But, we are not out of the woods yet. I have more of this material. Here is one, entitled "Amendment of Full-time Students at Special Minimum Rates."

There it is, fully extended [laughter.]

Look at what we have to look at, and then get into our cranium, to make sure that we are on the right side when it comes to employing students.

Here is another document on students. It would take us all day to find out whether we could employ a student in order to stay out of jail. How can anyone sell groceries across the counter if he has to take care of all this paperwork?

Here is one entitled "Equal Pay for Equal Work." This one I am sure, will appeal to the distinguished Senator from Georgia [Mr. RUSSELL]—"Equal Pay for Equal Work." That will be great. Just sort of figure that out.

There it is. [Directing the page boy, as before.] [Laughter.]

Mr. LAUSCHE. Will the Senator from Illinois please interpret those for us?

Mr. DIRKSEN. Interpret them? Why, 76 trombones and 77 Philadelphia lawyers could not do it. [Laughter.]

Here is one concerning the 1965 proposal to increase minimum wages to \$1.75 an hour to extend coverage to practically every small retailer. This will be the straw that will break the camel's back. If enacted, it will change many rules and regulations. It is 29 pages long.

There it is—see? This is one that they wanted; so there it is.

That is the House bill.

Is that not wonderful?

Have I not made a case for little business in this country when we assess the impact of all this paperwork upon them?

I hope that the Senate will stand by the \$500,000 floor and continue it after February 1, 1969.

For the benefit of Senators who were not in the Chamber when I began my remarks, I was on the Committee on Labor and Public Welfare, when it started with \$1 million and went down to \$500,000. Now \$250,000 is proposed. Mr. Biemiller of the AFL-CIO said in committee, when I quizzed him, "We want to try to get it down to \$100,000."

I said to him, "Why don't you take it down to zero and be done with it?"

Because then, in the all-embracing arms of Uncle Sam, will be found every business, large and small, in the country.

Believe me, those are all-embracing arms.

I never think of arms but that I think of the story of the fellow who called up his best girl and said to her: "Darling, I wish I were an octopus."

She said, "Why would you like to be an octopus?"

He replied, "With all those arms I'd like to embrace you with every one of them."

She said, "What's the matter with the two you've got?"

Mr. President, let us forget the arms of the octopus. Let us just let Uncle Sam have his two arms and not impose every little business in the country under the lengthening shadow of the Federal institution, because a great many of those little businesses may not survive.

Mr. President, the \$500,000 floor should be preserved. It is not touched until 1969, because the \$500,000 remains. Starting February 1, 1969, it drops to \$250,000. Once it drops, we will have a time getting it restored.

The time to strike the iron is now, in order to preserve it.

That is the case for the little business guy of the United States of America, who

sends up his plaintive cry for the preservation of freedom, freedom particularly from the long, threatening arm of Uncle Sam.

That is the story, Mr. President. I yield the floor.

Mr. YARBOROUGH. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized for 15 minutes.

Mr. YARBOROUGH. I speak in opposition to the amendment of the distinguished minority leader, which would destroy the floors fixed in the bill by the Senate committee and by a vote on the floor of the House.

The identical amendment offered by the Senator from Illinois was offered in the House of Representatives and voted down by a record vote. It came up in our subcommittee. Again it was voted down.

I have enjoyed one of the most interesting debates I have ever heard in the Senate. It was an entertaining one. I could not laugh, though, because I was thinking about the widows working in those little stores for 50 cents an hour. If they worked 8 hours a day, 5 days a week, for 52 weeks a year, they would get only \$1,040 a year. If those widows, who have children to support, who are working at such low wages, could have been in the galleries here, there would have been no laughter, because with them it is a matter of survival. There would have been no laughter; they would have been resentful, had they been in the galleries.

I offer the Senate this fact. If they receive \$1 an hour, those widows, many of whom have children to support, if they worked 8 hours a day, 5 days a week, for 52 weeks of the year, would receive only \$2,080 to support their broods. That would be what they would have to try to provide themselves with a decent living. That is all that \$1 an hour would provide.

The poverty level is \$3,000 a year. We studied that subject in the committee.

What was said in 1961? When the last bill was passed, it was said that with the imposition of those minimum wages the retail stores would go out of business. Who were the lowest payers of the wages? They were the variety stores. They were the stores that paid the lowest wages, because the items sold in the variety stores are for low amounts.

Yet the Department of Labor measured the effect on those variety stores as a result of the law. The Labor Department found—and the variety stores had the largest number of these lowest paid employees—that employment levels were not adversely affected when the wages were raised in compliance with the minimum wage requirements.

Mr. President, the proof of the pudding is in the eating. This has been the test. In spite of the arguments that were made that it would close down the retail establishments if the minimum wage was adopted, it did not close down the variety store.

What is involved in this provision is a dropping of the floor to \$250,000 after a delay of 3 years. It will not take effect

until 1969. People will have time to adjust and calculate. It is no sudden thing. They will have time to judge what will be the effect.

We have had much talk about the little businessman who will be affected. Just what does this \$250,000 cover in terms of size of business? It was pointed out that a motel with 50 rooms; if it rented each room at \$10 a day every night, would receive \$500 a day. So if the proprietor managed to rent every room in that motel for every night of the year at \$10 a night, his gross for a year would be \$182,500. So even a 50-room motel would not be covered, even if those rates were raised.

I mentioned \$10 a night because in my travels to my home State of Texas, wherever I stop, that seems to be the average price for a room. Some are higher. If a family wants to occupy a suite of rooms, of course, the charge will be higher, but if only one person occupies a room, that is the average cost.

If we talk about a store, the store must have a gross income of \$750 a day before it comes under the provision. I am talking about \$750 each day, excluding Sundays, before it would come under the category of doing business of \$250,000 a year.

The corner grocery store does not take in that much. It must be a fairly large establishment to take in that much a day. Senators who may have been in business know that. It must be a fairly large establishment to take in \$750 a day every day.

But this floor of \$250,000 a year will not come into effect until 1969. Under the law \$500,000 would be the floor that remained in effect until next February. The test of \$250,000 gross business would become applicable 2 years later.

It is true that when people are placed under regulations, those regulations require the keeping of records. But many of these concerns already must keep records of employment. They must keep social security records. They must report figures for social security purposes. So most of that information is already available.

In the House of Representatives the amount of bookkeeping required under the minimum wage and hour law was very severely attacked, as it has been here.

In response, the House committee stipulated in the House report the requirement the Secretary of Labor shall impose concerning records that would have to be kept, in order to decrease the burden of the law. There was no complaint in that respect made to our committee. We did not write it into the report of the Senate committee. We accepted the House language.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD page 22 of the House report on the Fair Labor Standards Amendments of 1966, paragraph 13.

There being no objection, the extract was ordered to be printed in the RECORD, as follows:

(13) *Recordkeeping.*—*Though no changes are made with regard to the records that must be kept by employers, because of the extended coverage of the Act some comments*

on the recordkeeping required under the Act are in order.

There is no particular order or form of records prescribed. Generally speaking, all these records are already kept. However, to show compliance with the Act employers must maintain records containing the information and data required by certain sections of the Act. With respect to employees who are exempted from the Act, records must be kept which demonstrate that the conditions of the exemption have been met.

For the overwhelming majority of employers, the only information with respect to employees that must be preserved are the following:

- (1) Name;
- (2) Home address;
- (3) Date of birth, if under 19;
- (4) Sex and occupation;
- (5) Time of day and day of week on which the employee's workweek begins;
- (6) Regular hourly rate of pay if overtime compensation is due the employee;
- (7) Hours worked each workday and each workweek;
- (8) Total daily or weekly straight time earnings;
- (9) Total overtime compensation;
- (10) Total additions to or deductions from wages paid each pay period;
- (11) Total wages paid each pay period; and
- (12) Date of payment and pay period covered by payment.

These records are the minimum necessary to demonstrate that the employer has complied with the basic minimum wage and overtime requirements of the Act. Some of these records are already kept by the employer for income tax and social security purposes, or for other reasons. For example, most logging crew employers are now keeping a record of how much such employees are paid, when they are paid, and any deductions from their wages. Essentially, the only additional records that an employer would have to keep would be basic time records showing the hours worked each day and the total hours worked each workweek, together with the amount of straight time and overtime wages required by the Act. Here again, employers normally keep these records as part of sound business practices. A small pocket notebook in which the employer keeps time and other records has worked out well in practice and satisfies the requirements of the regulations to record the hours worked.

The committee anticipates that the Secretary will give full and serious consideration to any suggestions which would simplify recordkeeping requirements and still provide the essential information necessary to secure compliance with the Act.

Mr. YARBOROUGH. I refer briefly to what is contained on that page. It reads:

For the overwhelming majority of employers, the only information with respect to employees that must be preserved are the following:

- (1) Name;
- (2) Home address;
- (3) Date of birth, if under 19;
- (4) Sex and occupation;
- (5) Time of day and day of week on which the employee's workweek begins;
- (6) Regular hourly rate of pay if overtime compensation is due the employee;
- (7) Hours worked each workday and each workweek;
- (8) Total daily or weekly straight time earnings;
- (9) Total overtime compensation;
- (10) Total additions to or deductions from wages paid each pay period—

Even a housewife who has a maid must keep records of what she has deducted for social security—

- (11) Total wages paid each pay period.

In the last paragraph it is stated:

The committee anticipates that the Secretary will give full and serious consideration to any suggestions which would simplify record-keeping requirements and still provide the essential information necessary to secure compliance with the Act.

We fully complied with the directions in the House report with respect to directions to the Secretary to make the recordkeeping as simple as possible.

I think, in closing, it might be well to refer to those who will be affected. The amendments offered to the Fair Labor Standards Act would cover 7.2 million.

On February 1, 1967, 6,213,000 will come under the act. An additional 967,000 will come under the act when the enterprise test is reduced from \$500,000 to \$250,000 2 years later, in 1969.

We are dealing with 1 million people in enterprises large enough to have gross incomes of \$250,000 a year. Those businesses will be required to pay \$1 an hour and then on up. Most of the people working in those businesses—a majority of them—already receive that much, but others are being affected by unfair competition in the form of the law wages which are being paid, and many of them are in desperation, as the study of the Poverty Subcommittee showed, particularly where the wage earner is a widow, a mother of children, who must try to support her brood. They are in the poverty class. We say this minimum amount is the lowest amount to provide in an attempt to let them live in decency and rear their families in decency.

Mr. DIRKSEN. Mr. President, I yield myself 10 minutes.

My distinguished and entertaining friend from Texas mentioned the fact that, by a record vote, this amendment was rejected in the House of Representatives. He forgets, however, to tell the whole story.

In the first place, by a very substantial vote, it was adopted by a teller vote in the House, and when they had a record vote, it lost by only 5 votes, because the vote was 200 to 195. And unless I mistake what happens around here from time to time, if there had not been some arm twisting, the House would have written it into the bill. That is the way they felt about it.

Then Senator speaks about the widows who, of course, would have a diminished income, and therefore would not eat quite so well. What about a widow who will not eat at all, when she loses her job, because so many of these are marginal and fringe jobs? That is infinitely worse, and I bleed more for a person like that than one who at least has something on which to lean.

Senator cites some figures here to indicate that this is not going to affect unemployment. If anybody has given attention to this matter over the years, it is Dr. Brosen of the University of Chicago, and he has quite a different story to tell on that score.

The Senator says it is recited in the House report that we should not load them with so much bookkeeping. Of how much effect is a report? We have written stuff into reports time and time

again. It has no more legal effect than the paper on the wall, and everybody knows it. Why was it not put in the bill? For the very good reason that there is not a committee under the canopy of heaven that could deal with it and frame it in words that would make it reasonably palatable to the business structure of the country.

And so, Mr. President, when the Senator says there has been no complaint, I reply that there were no hearings on the Senate side this year. That is the reason there were no complaints. Let us get to the truth of what is happening here. I used to serve on that committee. I have been through this lesson book before, and know what the score is.

It is about time that we come to grips with this issue, and stop putting this awful burden on the enterprises of the country. How many will be affected? I shall not state to whom the Small Business Administration addressed a letter, but their estimate is 200,000. That is quite a substantial number of businesses that are going to have to wrestle with figures and reports. You can write what you like in a committee report; it falls on deaf and infertile ears at the other end of the Avenue. The only way you can deal with it is to deal with it in the bill.

Mr. President, it is not for me to belabor the matter any longer. I have told my story, and I must bide the judgment of the Senate.

I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. JORDAN of North Carolina. Mr. President, I merely wish to say that I thoroughly agree with the fine statement by the distinguished minority leader.

I know something about these smaller stores. I know a great deal about them.

In the first place, they do not have the purchasing power to buy goods at the same price the big stores do. The small storekeeper cannot buy merchandise and sell it at the same price, and stay in business, to save his life. In the second place, he does not have the volume to pay the great many clerks, bookkeepers, and all the personnel required to take care of some of the things that would become necessary under this bill.

Mr. President, there is need for a great many small stores all over the United States. If we drive them out of business, we will be doing a disservice to the people of this country. There is no question about that.

Not everybody can go to the supermarket. Not everybody can have one within a block. But we do have these small stores in the suburbs and rural areas, where the big ones cannot survive because there is not the business there for them.

The small ones can. The operator of the small store usually has a little delivery service also, and he has to get a little bit more money for his goods; but at the same time I have seen it happen,

and know, that one of the large chain-stores would be selling goods at the same price the small merchant has to pay for them.

There is nothing wrong with that. I know that people ought to be able to buy stuff as cheaply as they can buy it. But at the same time, there is need for these little people. We need to keep them in business.

I agree with what the Senator has said, and I support his amendment.

Mr. DIRKSEN. Apropos of what the Senator has said, I wonder how many of these little businesses to which he refers, which number in the thousands, are operated by the widows mentioned by the Senator from Texas. I know they are operated by decent, God-fearing, law-abiding people, who try to make a dollar, keep some help going, satisfy the Government's report requirements, and survive. That is the problem. Because there will be nothing for the widows, let alone a job at \$1.25 or \$1.40 or \$1.60 an hour, before they get through.

Mr. JORDAN of North Carolina. Will the Senator yield 1 more minute?

Mr. DIRKSEN. I yield.

Mr. JORDAN of North Carolina. I do not know whether a request such as this has ever come to the Senator's office, or not, but it has to mine: a request from one of these small businesses to help them get a loan to stay in business.

Mr. DIRKSEN. It has, indeed.

Mr. JORDAN of North Carolina. "Can you help me get a small business loan? My statement does not justify it."

You don't expect the Government to make a bad loan, do you?

Well, can't you do something to help me get a loan, to help me stay in business? I am doing the best I can.

I have tried to do what I can to help most of them. They should not be able to get the money, because the loans are not good. Those people are in trouble right now.

Mr. DIRKSEN. There has not been a Senator who has not been confronted with that problem, as the letters go across his desk. We all receive frantic telephone calls from home, "Can't you help me? Can you help me keep afloat?" They are clamoring for help.

So they ask for bread, and we give them a stone. What kind of a stone? A stone in the form of a lot more book-keeping and a lot more expense, before they get through.

What is the Small Business Administration's definition of a small business? Is it a million dollars? That is where we have the floor now. But they propose to cut it, now, to \$500,000. So in one governmental agency, a million dollars is a small business; but that will not be the case so far as wage-hour is concerned. One more example of the inconsistency in this gargantuan, gigantic, colossal Government of ours, which continues to reach out.

We have made our case. Mr. President, I suggest the absence of a quorum, not chargeable to either side.

The PRESIDING OFFICER. Is there objection?

Mr. YARBOROUGH. Mr. President, will the Senator withhold his request?

Mr. DIRKSEN. I will.

Mr. YARBOROUGH. I yield myself 3 minutes.

Mr. PASTORE. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Texas is recognized for 3 minutes.

Mr. YARBOROUGH. In response to the inquiry of the distinguished Senator from Illinois about the widow who will not eat at all, we say the survey of the Labor Department answers that, wherein it is shown that even in variety stores with the lowest pay and the least sales value per item sold, when they came under this law, the ones who were big enough to come under it, there was no appreciable effect on employment, no loss of jobs.

The facts answer the question. The question is theoretical and hypothetical, but the cold survey has been made. People demand goods, and they will pay the price. If all are working on a reasonably even plan, there will be no unemployment.

The Senator says no hearings have been held, and drops his voice and adds "this year."

Mr. DIRKSEN. This year, that is right.

Mr. YARBOROUGH. In the last 2 years, since these hearings were started, we have accumulated, here, four volumes of hearings. How much more do we want?

Mr. President, the hearings held this year on this subject fill one volume of testimony and part of another.

The hearings held last year fill two volumes of testimony in their entirety. The hearings held in January of this year fill one volume of testimony.

Hearings were held in March of this year in Sacramento, Calif., and other parts of California. In April of this year, hearings were held in San Antonio, Tex.

The testimony taken on this subject fill four volumes of testimony and the hearings were taken over a period of a year and a half.

Certainly everybody knew of the pendency of the amendment to the Fair Labor Standards Act, the minimum wage law. Everybody knew it was of great importance. Everybody had an opportunity to be heard if they wanted to be heard.

Mr. DIRKSEN. Mr. President, did the committee have the bill before it when it held 3 days of hearings in January of this year? The committee did not get the bill until May.

Mr. YARBOROUGH. These hearings were held when the late beloved Pat McNamara, of Michigan, was chairman of the committee. I was not chairman. Unfortunately, a malignancy cut him down, and I am not able to answer that question.

Mr. DIRKSEN. The bill came over on the 27th of May, and these hearings were held in January.

Mr. YARBOROUGH. I am advised by counsel for the committee that we had the administration bill. I was not chairman at that time.

Mr. DIRKSEN. The committee did not have the House bill until May 27.

Mr. YARBOROUGH. We do not have to wait for the House bill.

Mr. DIRKSEN. I know the committee does not have to wait for the House bill.

Mr. YARBOROUGH. I thought the Senator meant the administration bill. We did have the administration bill.

Mr. President, this amendment was voted on in the committee. It was voted down in the Committee on Labor and Public Welfare, with both sides present, by a vote of 13 to 1.

There was only one vote for this amendment in the committee. The bill was reported by the Committee on Labor and Public Welfare by a vote of 15 to 0.

Mr. DIRKSEN. Does that make the committee right?

Mr. YARBOROUGH. No. It does not make the committee right.

Mr. DIRKSEN. Indeed not.

Mr. YARBOROUGH. However, when you have unanimity of opinion on both sides, that does represent the opinion of both sides.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. YARBOROUGH. Mr. President, I yield myself an additional 3 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized for an additional 3 minutes.

Mr. YARBOROUGH. Mr. President, that vote reveals that the committee members who heard the evidence and were best qualified to judge—having sat in on the hearings and studied all sides of the matter thoroughly—were in favor of the bill and against this amendment.

The committee was in session for 38 days of the time, with the subcommittee considering the bill for 14 days, actually considering it hour after hour. It was in the full committee just as long.

I say to the distinguished Senator from Illinois that we appreciate the cooperation of the minority party, led by the senior Senator from New York [Mr. JAVITS]. Those members of the minority helped to make the quorums. We had the quorums and were able to do business. They cooperated. Some of their amendments were adopted.

Mr. DIRKSEN. We always cooperate.

Mr. YARBOROUGH. We had cooperation in this instance.

We had a vote of 13 to 1 against this amendment. We then had a final vote of 15 to 0 in favor of the bill. Evidently those who had an opportunity to hear the evidence and study the matter did not see a great injustice in the bill.

I point out that the \$250,000 minimum first came in the law in 1961 as an amendment from the distinguished Senator from Arkansas [Mr. FULBRIGHT], and what we do here brings the other enterprises under a provision already contained in the law.

Mr. DIRKSEN. What year was that?

Mr. YARBOROUGH. 1961.

Mr. DIRKSEN. What has inflation done to prices since then?

Mr. YARBOROUGH. We now propose to bring the other enterprises under the law to protect the small businessman.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield.

Mr. PASTORE. Mr. President, will this bill affect the widows working in these establishments?

Mr. YARBOROUGH. It certainly will.

Mr. PASTORE. Will it also affect some of the widows who own these establishments?

Mr. YARBOROUGH. It will.

Mr. PASTORE. Mr. President, how will the bill help the widows who work in these establishments?

Mr. YARBOROUGH. It will bring them up to a wage of \$1 an hour.

Mr. PASTORE. A \$1 an hour, which is \$40 a week. Is that what we are talking about?

Mr. YARBOROUGH. The Senator is correct.

Mr. PASTORE. Before taxes?

Mr. YARBOROUGH. That is before taxes.

Mr. President, I yield the floor.

Mr. DIRKSEN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YARBOROUGH. Mr. President, I yield back the remainder of my time.

Mr. DIRKSEN. Mr. President, I yield back the remainder of my time.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DIRKSEN. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Tennessee [Mr. BASS], the Senator from Idaho [Mr. CHURCH], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. HARRIS], the Senator from Missouri [Mr. LONG], the Senator from Montana [Mr. METCALF], the Senator from Oklahoma [Mr. MONRONEY], and the Senator from Maine [Mr. MUSKIE] are absent on official business.

I also announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Indiana [Mr. HARTKE], and the Senator from Arizona [Mr. HAYDEN] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], the Senator from Maryland [Mr. BREWSTER], the Senator from Alaska [Mr. GRUENING], and the Senator from Oklahoma [Mr. HARRIS] would each vote "nay."

On this vote, the Senator from Mis-

souri [Mr. LONG] is paired with the Senator from Oklahoma [Mr. MONRONEY]. If present and voting, the Senator from Missouri would vote "nay" and the Senator from Oklahoma would vote "yea."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from California [Mr. MURPHY] are absent because of illness.

The Senators from Colorado [Mr. ALLOTT] and Mr. DOMINICK] are absent on official business.

The Senator from Idaho [Mr. JORDAN] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

If present and voting, the Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK], the Senator from Utah [Mr. BENNETT], the Senator from Idaho [Mr. JORDAN], the Senator from California [Mr. MURPHY], and the Senator from Wyoming [Mr. SIMPSON] would each vote "yea."

The yeas and nays resulted—yeas 41, nays 41, as follows:

[No. 226 Leg.]

YEAS—41

Aiken	Griffin	Prouty
Bible	Hickenlooper	Robertson
Byrd, Va.	Hill	Russell, S.C.
Cannon	Holland	Russell, Ga.
Carlson	Hruska	Saltonstall
Cooper	Jordan, N.C.	Smathers
Cotton	Lausche	Sparkman
Curtis	McClellan	Stennis
Dirksen	McGovern	Talmadge
Eastland	McIntyre	Thurmond
Ellender	Miller	Tower
Ervin	Morton	Williams, Del.
Fannin	Mundt	Young, N. Dak.
Fulbright	Pearson	

NAYS—41

Anderson	Javits	Neuberger
Bayh	Kennedy, Mass.	Pastore
Boggs	Kennedy, N.Y.	Pell
Burdick	Kuchel	Proxmire
Byrd, W. Va.	Long, La.	Randolph
Case	Magnuson	Ribicoff
Clark	Mansfield	Scott
Dodd	McCarthy	Smith
Douglas	McGee	Symington
Fong	Mondale	Tydings
Gore	Montoya	Williams, N.J.
Hart	Morse	Yarborough
Inouye	Moss	Young, Ohio
Jackson	Nelson	

NOT VOTING—18

Allott	Dominick	Long, Mo.
Bartlett	Gruening	Metcalf
Bass	Harris	Monroney
Bennett	Hartke	Murphy
Brewster	Hayden	Muskie
Church	Jordan, Idaho	Simpson

The PRESIDING OFFICER. On this vote the yeas are 41, the nays are 41, a tie vote, and the amendment is rejected.

Mr. DIRKSEN. Mr. President, I move to reconsider the vote, and ask for the yeas and nays.

The PRESIDING OFFICER (Mr. PROXMIRE in the chair). The yeas and nays are requested.

Mr. PASTORE. Mr. President, a point of order.

Is the Senator from Illinois on the prevailing side?

Mr. DIRKSEN. He is.

The PRESIDING OFFICER. The Senator from Illinois is not on the prevailing side.

Mr. PASTORE. May the Senator from Illinois move to reconsider?

Mr. DIRKSEN. He is not on either the prevailing or the nonprevailing side on the tie.

The PRESIDING OFFICER. The Parliamentarian informs the Chair that the Senator from Illinois and those who voted for the amendment are not on the prevailing side.

Mr. DIRKSEN. Well, who is?

The PRESIDING OFFICER. Those who voted against the amendment are on the prevailing side.

(Several Senators called for the regular order.)

Mr. DIRKSEN. A parliamentary inquiry, Mr. President, and that is not subject to a call of the regular order.

What is the rule with respect to a tie, and who can make the motion to reconsider?

The PRESIDING OFFICER. Only Senators who voted with the prevailing side or those who did not vote are eligible to move to reconsider.

Mr. DIRKSEN. So neither side prevails, so only—

The PRESIDING OFFICER. Those who voted against the amendment prevail.

Mr. DIRKSEN. So only the absentees can move to reconsider?

The PRESIDING OFFICER. The absentees, and those who voted against the amendment are on the prevailing side.

Mr. PASTORE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The bill is open to further amendment.

(Several Senators addressed the Chair).

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. YARBOROUGH. Mr. President, I yield—

The PRESIDING OFFICER. How much time does the Senator from Texas yield to the Senator from South Carolina?

Mr. YARBOROUGH. I wish to yield to the Senator from Arkansas.

AMENDMENT NO. 772

Mr. THURMOND. Mr. President, I call up my amendment (No. 772) and ask that it be stated.

Mr. President, I might say for the benefit of Senators that I have only two amendments, and if Senators wish to vote immediately, I shall not take over 5 minutes on each amendment. I think that we could do it without a rollcall.

The PRESIDING OFFICER. The Senator will suspend until the Chamber is in order.

The amendment will be stated.

The assistant legislative clerk read as follows:

On page 50, line 9, strike out the period and substitute a semicolon and the word "or".

On page 52, between lines 3 and 4, insert the following:

"AMBULANCE SERVICE EMPLOYEES

"SEC. 215. Section 13(b) of such Act is amended by adding after paragraph (19) (added by section 210(b) of this Act) the following new paragraph:

"(20) any ambulance driver or attendant employed by an employer engaged in the business of operating an ambulance service."

The PRESIDING OFFICER. How much time does the Senator from South Carolina yield to himself?

Mr. THURMOND. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 5 minutes.

Mr. YARBOROUGH. Mr. President, we had agreed to yield to the distinguished Senator from Arkansas [Mr. FULBRIGHT].

The PRESIDING OFFICER. The Senator from South Carolina [Mr. THURMOND] has the floor. Does the Senator from South Carolina yield to the Senator from Texas?

Mr. YARBOROUGH. Mr. President, in accordance with the prior agreement, the Senator from Arkansas [Mr. FULBRIGHT] would be recognized. We had an agreement that he be recognized for 2 minutes.

Mr. FULBRIGHT. With time to be charged to the bill.

The PRESIDING OFFICER. The time is taken from the bill.

CORRECTION OF THE RECORD

Mr. FULBRIGHT. Mr. President, on August 19, 1966, in a colloquy I made this statement which appears on page 19171 of the RECORD, in the middle of the page:

David Lawrence is not noted for being a wild-eyed liberal. He is the one who says that we are regarded now by the most civilized part of the world outside of the United States—that is, Western Europe—as being the sick man.

That was a slip of the tongue. I did not mean to say that he, Mr. Lawrence, is the one who said that we are regarded now by the most civilized part of the world outside of the United States as being the sick man. I meant to say that the magazine, U.S. News & World Report, in its section "Washington Whispers," said that.

Mr. President, I ask that the permanent RECORD be so corrected.

The PRESIDING OFFICER. The correction will be made.

Mr. FULBRIGHT. Mr. President, I merely call attention to the fact that on pages 19170 and 19173 it is made quite clear that the statement occurred in U.S. News & World Report.

It was merely an inadvertent slip of the tongue, because it was quite obvious in my other remarks where that particular statement had appeared.

LUMBERING AND FORESTRY OPERATIONS

Mr. FULBRIGHT. Mr. President, under existing law employers who employ 12 men or less in lumbering and forestry operations are exempt from the provisions for minimum wage and overtime. As passed by the House of Representatives, H.R. 13712 would amend existing law to exempt only those employers who employ eight men or fewer in such operations. As reported by the Senate Committee on Labor and Public Welfare, the pending bill would reduce the exemption to eight-man crews beginning February 1, 1967, and to six-man crews beginning February 1, 1968.

While I would prefer that existing law

remain unchanged, I have been advised by members of the logging industry in my State that the provision in the bill as it passed the House of Representatives is acceptable to them. I regret very much that the Senate committee did not accept the action of the House.

Testimony before the Senate committee states that the employees involved generally receive wages in excess of the legal minimum amount. This testimony also shows that the real burden imposed by lowering the size of the exempt crews is in recordkeeping and other administrative problems. I am fearful that the imposition of these burdens will cause many small logging operations to go out of business, resulting in a loss of employment in my State as well as a loss of income for owners of small, widely scattered wood lots harvested by relatively small crews of men.

Mr. President, I ask unanimous consent that material appearing on pages 546 through 560 of the record of hearings before the Senate Committee on Labor and Public Welfare be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY OF HON. J. W. FULBRIGHT, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Senator FULBRIGHT. Thank you very much, Mr. Chairman. I appreciate the chairman accommodating me to introduce an old friend of mine, one of the leading lumbermen in my State, Mr. John Elrod, of Rison, Ark., who will testify on behalf of the American Pulpwood Association.

Mr. Elrod's testimony will be directed to the reasons for requesting the retention of the exemption in 13(a)(15) of the Fair Labor Standards Act, which is the so-called 12-man exemption for the forestry and logging industry.

I have known Mr. Elrod for many years, and by coincidence many years ago I had some personal experience in this industry in Arkansas. It is quite different, I may say, from the type of industry, logging industry that exists in other areas, particularly the Northwest. I personally believe—and I think Mr. Elrod will testify—that the retention of this exemption is very important to the economic well-being of the logging and forestry industry of my State. He will discuss the details. I want to emphasize that this forest products industry ranks second only to agriculture in the economy of Arkansas, and this is due largely to the growth of the pulpwood and paper industry during the past 20 years.

This 12-man exemption has been in existence since 1949. It is a significant factor, in my opinion, in considering this proposal that the overwhelming majority of the workers in the small operations already are paid wages in excess of the minimum wage.

The essential reason for the exemption of the small logging operations is the nature of the operations themselves. Typically the workers are engaged in the cutting of timber on small widely scattered tracts and with small unsupervised crews. This is what I mean by being quite different from the very large operations such as exist in the Northwest. In Arkansas, there are scattered tracts all through the State and only a few are very large operations, large corporations, to which this would not apply in any case.

The elimination of the exemption for workers of this type would create an almost impossible burden on the small operators. Repeal of this exemption would result in

the loss of jobs for the very people we are attempting to protect, and also would result in the loss of market for the small woodlot owners. By that, again, I mean many of these farmers have changed, reforested old farms, small lots in Arkansas. You will find small plots with tree farms, less than 80-acres, scattered all over the State.

We have made progress in the State and have reached the stage where we will be able to carry our own weight economically. I think it is too early and premature to remove this exemption. I believe Mr. Elrod's testimony will be helpful, and I think Mr. Elrod will be able to give you all the facts and he will be able to answer your questions. He is a very reputable representative of the industry in my State.

Thank you very much.

Senator MORSE. Senator FULBRIGHT, we are very glad to have your statement. We shall hear Mr. Elrod and the other members of the panel.

The panel will proceed to testify at this time. You may proceed in your own way.

STATEMENT OF JOHN ELROD, PRESIDENT,
AMERICAN PULPWOOD ASSOCIATION

Mr. ELROD. Thank you, Mr. Chairman.

I am John W. Elrod, a partner in Elrod Co., of Rison, Ark., which handles a variety of forest products. I am speaking for the American Pulpwood Association, of which I am a member.

At the request of this subcommittee, our statement may be regarded as covering the basic points which are made by most witnesses representing several dozen organizations who want to see section 13(a)(15), that is, the 12-man forestry and logging exemption be retained intact in the Fair Labor Standards Act.

Some of these other organizations are represented here today in the panel of witnesses which has joined us at your request. They will be introduced by four regional spokesmen. Each of the witnesses has statements of his own which they have filed with the reporter.

We trust that you will feel free to direct questions to any members of the panel, and that I may comment also on the questions or answers, and that I may be assisted by W. S. Bromley as executive secretary, and by M. B. Weir, as counsel for the American Pulpwood Association, who are here with me.

Senator MORSE. For the purpose of the record, the statements that have been filed with the reporter now officially will be made a part of the record, and will be incorporated in the record following the discussion.

Mr. ELROD. Thank you.

The forest industries have had to testify in favor of retention of the 12-man exemption at hearings held during the 84th, 85th, 86th, and the 88th Congresses. Since some of the members of this subcommittee may have heard our statements in the past, we will be brief in our review of any previously presented material and stress new facts and material which support our views.

Section 13(a)(15) should be allowed to remain intact in the Fair Labor Standards Act because of the following four significant points:

1. *Woods workers wages generally exceed legal minimum*

The testimony of the Secretary of Labor before this subcommittee supported by and large what we have claimed for years, when he noted that only 6 percent or 5,000 of "small logging, section 13(a)(15)" workers are earning less than the legal minimum wage.

Elimination of the 12-man exemption to extend effects of coverage of the act to 6 percent of the workers on small logging operations will only result in pushing these 5,000 workers off their jobs.

In short, it will hurt most of the workers who should benefit, and result in the loss of

jobs and businesses among the remaining 94 percent of our small logging industry, the 94 percent which is already meeting and exceeding the minimum wage requirements of the act.

2. *Current proposals recognize exempt status of small business*

The bills in question, such as S. 1986, propose to maintain exemptions for thousands of small business operations having annual gross sales of less than \$250,000.

It is very unusual that a 12-man logging operation produces forest products with a sales value of more than \$250,000 a year. It is difficult to understand the purpose of legislation which maintains exemptions for many thousands of small business operations in one section and eliminates exemptions for much smaller operations in another section.

3. *Small ownerships require small operations*

We have maintained in the past, and we have more recent data to show, that the forest products consuming industries have historically relied on small logger-producers and farmers for the major sources of their supply.

This is so because most of the commercial forest land throughout the United States is held by small owners who have holdings averaging less than 100 acres each, but they are the major source of commercial wood requirements.

Satisfactory methods of applying Wage-Hour Act regulations to small logging and small farming operations never have been de-

veloped. Enactment of this legislation will mean that small ownerships will be bypassed to favor large tracts of timber. The farm woodlots and small forest tracts will be the first to suffer.

4. *Small loggers cannot keep accurate time records*

This subject has been covered in detail in our prior statements. However, its significance cannot be overlooked.

Each of the foregoing points now require further explanation.

Woods workers wages generally exceed legal minimum

We call your attention first to our figure 1, Secretary of Labor's table 2, presented to this subcommittee on July 6, 1965. It shows the estimated number of nonsupervisory employees who would be brought under the minimum wage provision of the Fair Labor Standards Act by H.R. 8259 (S. 1986) and the estimated number paid less than \$1.25 per hour.

We attach a copy of this table to our statement and will appreciate having it placed in the record at this point. It is in the statement following page 4, Mr. Chairman.

Senator MORSE. This table and all further tables submitted by this witness or other witnesses on the panel may be incorporated as part of the record in the appropriate place in the record.

Mr. ELROD. Thank you, sir.

(The table referred to follows:)

FIGURE No. 1

TABLE 2.—Estimated number of nonsupervisory employees who would be brought under the minimum wage provisions of the Fair Labor Standards Act by H.R. 8259 and the estimated number paid less than \$1.25 an hour

Industry	Employees added to minimum wage coverage by the proposed extension				
	Total number (thou- sands)	Number paid less than \$1.25			
		Based on cash wages		With an allow- ance for tips	
		Number (thou- sands)	Percent	Number (thou- sands)	Percent
All industries	4,561	1,572	34	1,406	31
Retail trade	1,500	456	30	456	30
Food service	100	72	72	72	72
Auto and farm equipment dealers	600	96	16	96	16
All other retail trade	800	288	36	288	36
Hotels	275	138	50	99	36
Restaurants	425	225	53	123	29
Laundries	175	72	41	72	41
Hospitals and nursing homes	890	303	34	303	34
Motion picture theaters	75	45	60	45	60
Local transit	10	1	10	1	10
Construction	250	15	6	15	6
All other industries (3) (s)	650	201	31	181	28
Agricultural processing within area of production	90	58	64	58	64
Cotton ginning	34	23	67	23	67
Small logging	87	5	6	5	6
Taxicabs	100	30	30	25	25

NOTE.—Retail, retail service, and laundry establishments with less than \$250,000 in annual receipts would remain exempt.

Mr. ELROD. You can see that the Secretary's table 2 estimates that only 5,000 small logging workers out of 87,000 are earning less than \$1.25 per hour. This small portion, only 6 percent, would not be extended the benefits of extended coverage of the act very long if the 12-man exemption were eliminated.

Loss of the exemption would force thousands of part-time producers and farmers out of the market, in favor of larger highly mechanized operators and owners of large blocks of timber, not because the workers are earning less than the minimum wage, but because of the administrative requirement of the act.

Currently the industry is spending large sums of money on logging and harvesting re-

search. These studies point to the fact that machine harvesting systems will be confined primarily to large tracts and heavy stands of timber on relatively flat, well-drained lands.

Such areas are found primarily on the coastal plains, and not in the Ozarks, Appalachia, Great Lakes, New England, or other regions with "poverty areas." These problem areas are important sources of supply to the forest industries, but could mechanize the least, and would therefore suffer the most from loss of the 12-man exemption.

Loss of the 12-man exemption would thus start our industry in the Ozarks, Appalachia, and other "poverty" regions down the same unfortunate trail which the coal industry fol-

lowed. We would end up as being highly mechanized, somewhat organized, but with great pockets of unemployment created along the trail.

Current proposals recognize exempt status of small business

Suggestions have been given to our industry and to the U.S. Department of Labor by members of the House General Subcommittee on Labor to come forward with formulas or factors to be applied in lieu of the 12-man exemption.

We have carefully studied this idea, but have not come up with any workable solution. So far, we have not heard of the Department of Labor coming up with any solutions, either, in this area.

The difficulties encountered in this approach may be understood when one realizes that piecework rates vary from one job to the next, or from one day to the next, because of such variable factors as—

1. Tree species: We must have more than 150 commercial tree species in the United States, and at least 20 different ones in any one State.

2. Timber types—that is, combinations or mixtures of different tree species, of which at least 37 major types are recognized by the Society of American Foresters.

3. Tree sizes used commercially vary from 5 inches in diameter at breast height to more than 40 inches in diameter.

4. Timber densities vary from 1 cord to 100 cords per acre.

5. Land factors such as slope, altitude, and ground conditions.

6. Weather and climate conditions.

No uniform conversion formulas could be developed to apply to the thousands of combinations of the above factors which are encountered in the woods.

Employers and employees can quickly negotiate the mutually acceptable piecework rate—or adjust it as needed, as they see or work over each timber stand, but the end result of their negotiations, or of any conversion formulas would not possibly meet the standard of accuracy—within 5 or 10 minutes for each day's work—which is required by the Wage-Hour Division.

In a number of other industries, S. 1986 maintains exemptions for thousands of small business operations doing less than \$250,000 gross sales annually—while this bill proposes to eliminate the small logging operations which usually have still smaller annual sales volumes, from any exemption at all.

In short, the 12-man exemption already provides for much lower gross annual sales limits in the logging industry than the limits applied to other industries.

Ownerships require small operations

And this cannot be overemphasized, Mr. Chairman.

The loggers supplying logs and pulpwood from second growth timber to forest products consuming industries in the United States have always been small in size, and they are small today. These facts are directly related to the land distribution policies of our Federal Government and the landownership pattern of farms, farm woodlots, and forests which have developed as a result of these policies.

Today, east of the Rocky Mountains, most all forested areas have been cut once, and many areas as many as six or seven times. This sporadic series of cuttings, coupled with a subdivision of ownership, many times has resulted in the forests of today being a patchwork of many small woodlots.

Therefore, when consuming mills want wood, it must of necessity come from the land of farmers and small owners. Approximately 4½ million owners in the "farm" and "other private" categories own better than 300 million acres of commercial forest land, or less than 100 acres per owner.

As the pulpwood consuming industries have expanded, many mills have attempted to acquire some forest land, primarily as a form of insurance to guarantee a small portion of their total needs being readily available, and for research and experimental purposes.

Nevertheless, all but a very small portion of the wood consumed has to come from the small owner, and this will undoubtedly continue to be the case in the foreseeable future.

Mr. ELROD. In 1961, more than 50 percent came from the small woodlots of farmers and other small woodland owners, and the source of pulpwood today is essentially the same.

You will note that almost 40 percent of our pulpwood is cut and hauled by part-time producers who sell less than 1,000 cords a year. The men in this group are mostly farmers.

Employees working on agriculture lands are exempt, regardless of the size of the crew. Employees of small farmers working on the woodlots of others are also exempt under section 13(a) (15) of the Fair Labor Standards Act.

Since the same workers are frequently involved, can you picture the confusion which would exist in this and thousands of similar areas in all forest regions, if section 13(a) (15) were repealed, and the workers were exempt on the days, or hours, they worked on the farmlands, but were covered by the act when they worked on the woodlands?

Mr. Chairman, I might add in my area this is quite common.

Since most pulpwood must, of necessity, come from scattered small woodlots, logging operators under these conditions have historically been small.

Most logs and pulpwood in the North and South are produced by small operators well suited to the second and third growth timber, characteristic of these areas. On the other hand, logging operations in the West are on a much greater scale. The large concentration of first-growth timber on large tracts of land permits a higher degree of mechanization than is possible in the more scattered and smaller eastern tracts.

From 1944 to 1964, pulpwood consumption increased more than 180 percent, to a total of about 48 million cords. Expansion in the number of consuming mills has resulted in a similar increase in the number of pulpwood producers upon whom the consuming mills are completely dependent.

Small loggers cannot keep accurate time records

We have been chided about this in the past, Mr. Chairman, but it is a valid reason.

As in previous appearances before this subcommittee, we again stress the point that there has been on change in the basic conditions which require the establishment of the 12-man exemption in 1949.

These conditions of wide distances between places of work of individual members of the crew and their employer, and wide ranges in time of when men start and quit work, make it impossible for employers to be responsible for the accuracy of time records, which is a foundation for applying the Wage-Hour Act.

The act states that the employer must be responsible for the accuracy of these records. Small logger employers cannot be responsible when their crew of 6 to 12 men may be working scattered over areas miles apart and working by themselves or in pairs in dense woods, while the employer may in any day be miles away and doing the following:

- (1) Looking for and training new workers;
- (2) Looking for, measuring, or buying new tracts of timber;
- (3) Driving a truck to or from the woods, mill yard, or concentration yard;
- (4) Buying or repairing saws, trucks, and other equipment;

(5) Ordering, loading, and shipping out railroad cars, if wood is shipped by rail; or

(6) Keeping records of the amount of wood cut, and the amount he must pay each man for it.

All this is done, and can be done, by the logger employer only when most of the woods workers are working on a piecework basis. This is the way most all of our small loggers work.

To impose on them the added responsibility of keeping accurate time records on workers he does not see most of the week imposes a burden which he cannot economically or practically fulfill.

This is not mere speculation on our part. It has been proven to us by past experience without a shred of doubt.

Senator MORSE. Mr. Elrod, may I interrupt for a question? I think it would be best to clear it up at this point.

As I followed this explanation of the recordkeeping, let us take employed A, who has various groups out, and say the men may be miles apart. At the end of the pay period, 1 week or 2 weeks, whatever the period is, he pays them for their time worked, assuming they are on piecework.

Now, he relies on some records, I suppose, the records they submit to him. If those records are good enough for him to pay wages, why are they not good enough for him to send in under any recordkeeping requirement that the law may impose on him?

Mr. ELROD. Mr. Chairman, I know of no one who pays by the hour, unless he is large enough to be covered by the Fair Labor Standards Act. All the people I have had any dealings with pay by the piece. His standard of accuracy might not be the same as those of the Wage and Hour Division.

I could not answer that.

Senator MORSE. If he pays by the piece rate, and you had the exemption removed, you would have to translate that into hours. Is that the point?

Mr. ELROD. Yes. He has no way of keeping track of these hours.

As a practical matter in our area, the way this business is operated quite frequently, the cutter will go to his place of work by himself on one tract of timber while the loader may be on a tract 5 miles away that was cut the previous day, loading wood on a truck.

Senator MORSE. Would it follow, then, if this exemption were removed as far as operation of this type is concerned, it would have the additional effect of abolishing the piece rate program?

Mr. ELROD. I don't see how the piece rate could be tied to a specific number of hours. We have tried our best to come up with some method of doing it.

In hearings before this subcommittee and other committees in the past, serious misunderstanding over recordkeeping, misstatements in general, have been made about the 12-man exemption and its application to the forest industries.

In previous statements and testimony we have corrected these misstatements with facts. We feel it should be unnecessary to repeat this information, inasmuch as our answers are still valid today.

Mr. Chairman, we have specific reference there to the charge that these crews are people who formerly worked for pulp and paper companies and were discharged after this amendment was adopted, and were put out there in the woods to deal with people who formerly had been company foremen.

We know of no instance where this has happened. We have asked for specific examples, and no one has been able to come up with one.

In conclusion, we believe that repeal of the 12-man exemption would not have the effect of improving the working conditions of the very small percentage of logging employees which the Labor Department believes is receiving less than the legal minimum wage.

Many unintended effects would follow repeal, which would include:

(1) Substantial loss of employment in those regions of the country in which employment and economic improvement is needed the most;

(2) Elimination of thousands of small logging operators, the great majority of whose employees are already earning the legal minimum wage or more;

(3) Closing the market to small tree farmers in all forest regions of the country;

(4) And, what is most unfortunate, it would turn back the clock to the same situation we had before 1949, when hundreds of unintentional and unavoidable violations of the act were committed by small loggers for whom strict compliance with the law was impossible.

We appreciate this opportunity of presenting our views on this 12-man exemption portion of S. 1986 which is so important to the small business operators engaged in logging and forestry activities.

Mr. Chairman, the first member of our panel who will make a regional statement is Mr. Russell Allen, of Minnesota, who will speak for the Lake States and western loggers.

Senator MORSE. Before I call on him, Senator PROUTY may not be able to get back. His administrative assistant has just asked me to ask you in his behalf these questions. I think perhaps in the interest of continuity in the record, it would be better for me to ask them now.

The first question is, and this is Senator PROUTY speaking through me—I believe you were present this morning and heard the differences in the statistics between those cited by the International Woodworkers' representative, Mr. Hartung, and those to which I referred.

Have you attempted to validate or invalidate the data supplied by Mr. Hartung since his testimony before the House committee?

Mr. ELROD. Mr. Chairman, we did on the basis of his statements before the House subcommittee, especially in regard to the figures that he cited from the Bureau of the Census.

I would like to read just a couple of paragraphs from a letter addressed to Senator McNamara by Mr. Bromley, our executive secretary.

We have given a copy to the reporter. Would you like to have a copy, sir?

Senator MORSE. I can hear you. You give it to the reporter, and I will follow you.

Mr. ELROD (reading):

"During hearings in the House of Representatives on H.R. 8259, extension of coverage—Fair Labor Standards Act on June 23, 1965, the representative of the International Woodworkers of America, A. F. Hartung, used in his statement data derived from Bureau of the Census preliminary reports which was represented as proof that production workers in the logging industry in eight States earned less than \$1.25 per hour in 1963.

"Subsequent investigation has proven this data to be statistically invalid. In anticipation that these same erroneous statistics would be utilized in Senate hearings, we would like to submit our analysis and a letter from M. R. Conklin, Chief, Industry Division, Bureau of the Census, attached, which confirms the unreliability of their data.

"The statistical limitations which produced the low hourly earnings listed in the International Woodworkers of America statement are the result of an unbalanced sample of 'hours worked' which makes the data meaningless.

"The Bureau of the Census solicits information from larger logging establishments on a long, detailed seven page report form (M-24A) and from smaller logging establishments on a two-page short report form

(MC-242-1). Both report forms ask for information about number of employees and payroll. The long report form asks for 'production worker man-hours.' The short report form does not ask for any information on 'man-hours' or 'wages' for production workers.

"Data on 'hours worked' and 'wages' derived from long form reporters (larger operators) is arbitrarily applied by census to cover smaller operators from whom data on hours worked was not obtained. Since the long forms are used by larger firms with many employees, stable full-time operations geared to maximum manpower utilization, a distorted picture results when this data is applied to smaller logging firms reporting on the short form. The very nature of their part-time, less efficient, activity does not produce compatible annual hours or wages per employee.

"Mr. Conklin notes in his letter that the total on 'wages' and 'man-hours' for logging workers in all the preliminary state reports including those referred to by Mr. Hartung 'cannot be used with confidence.' In fact, it is evident now that these totals will not be published in this form.

"In view of these facts, we would like to have this letter and attachment included in the record following Mr. Hartung's testimony before your subcommittee."

I would like to read Mr. Conklin's letter to Kenneth S. Rolston, Jr., employed by American Pulpwood Association, July 2, 1965.

"DEAR MR. ROLSTON: This is in response to your recent telephone conversations with Mr. Elmer Biles of this Division concerning totals reported for industry 2411, logging camps and contractors, in preliminary State reports from the 1963 Census of Manufacturers.

"We share your interest in validating the man-hours and production worker totals reported for industry 2411 for selected Southern States. Perhaps an explanation of reporting procedures for the 1963 Census of Manufacturers would be helpful to you.

"Establishments classified in the logging industry, as in all manufacturing industries canvassed in the 1963 Census of Manufacturers, reported a varying amount of detailed data depending on their size. In the case of the larger manufacturing establishments, they reported information on employees, separately for production workers and other employees, payrolls for each group, and man-hours for production workers. However, small establishments reported only total number of employees and total salaries and wages, and were not requested to report separate figures for production workers' wages or man-hours. Thus, to derive totals for the entire industry it was necessary to impute man-hours, wages, etc. for the smaller loggers. Further review, following release of data in the preliminary State reports, indicates that the amount of estimate in the totals for number of production workers, their wages and man-hours, limit their statistical validity to the extent that these figures cannot be used with confidence.

"In the final industry and State reports which will be published late this year and early 1966, the man-hour and related data for the logging industry will either be withheld from publication, limited to establishments over a certain employment size, or be revised significantly from the preliminary reports. Further investigation and study of the matter will be proceeding in the meantime.

"Sincerely,

"MAXWELL R. CONKLIN,
"Chief, Industry Division, Bureau of
the Census."

By the way, we would like to have this letter in the record, and we have given the reporter a copy.

Senator MORSE. That will be made a part of the record.

Mr. ELROD. In addition to the inconsistencies here, some figures supplied by the Bureau of Labor Statistics—I am not familiar with it, but Mr. Bromley and Mr. Weir have done considerable work on it, and I would appreciate their being given an opportunity to clear that up.

Senator MORSE. Off the record a moment. (Discussion off the record.)

Senator MORSE. You may proceed, Senator Prouty.

Senator PROUTY. I don't know how long it will be possible for me to remain. Certainly I do want to introduce a constituent of mine from Vermont, Mr. Renaud.

I am delighted to have Mr. Renaud down here. He has been engaged in the pulpwood business since 1938. He was born and raised on a farm. His father and mother I believe still operate a farm in Vermont.

I am delighted to have him down here. I am sure he will contribute a lot to the work of the committee, because he is thoroughly familiar with it, particularly in relation to the Northeast.

Senator MORSE. We are very glad to have his statement for the record.

Senator PROUTY. Now, Mr. Elrod, were you here when Mr. Hartung testified?

Mr. ELROD. Yes.

Senator PROUTY. Is it your opinion that employees must pay for their own equipment, such as axes, chain saws, and so forth?

Mr. ELROD. Senator, ordinarily the employees do not. If they are contractors in the sense that they cut by the cord or haul by the cord, or if they are producers who own all of the equipment, then they furnish their equipment, but the employees ordinarily are furnished the equipment by the producer.

By "the producer," I mean the owner of the equipment and the fellow who supervises what work is supervised.

Senator PROUTY. What would you say the average hourly wage was in the States to which Mr. Hartung was referring?

Mr. ELROD. I know of very few who are paid by the hour in our area. I know one producer who has what he calls a slasher mill. He told me that the cheapest employee that he could find was \$1.50 an hour. He pays his men by the hour because they are all working together all the time. But his is a very unusual case.

Many of the employees of producers in our areas have quit hourly jobs that pay anywhere from \$1.40 to \$2.50 in order to go to work in the woods, so I must assume that they make as good as they left.

Now, we have some people here who can give you some figures on that. I am sure we have some producers who can tell you what they pay their men.

Senator PROUTY. I think it is very interesting that we have all this information.

Mr. ELROD. We would be happy to furnish you some answers from some of these people who are here and have the figures.

Senator PROUTY. What is the average workweek? I think the figures given us this morning indicated in one area at least it was 60 hours.

Mr. ELROD. If that is the average workweek, it is the most unusual territory I have even seen in the pulpwood business.

We are unable to work that many hours, because of weather and other factors.

I am only 35 miles from one of the places mentioned this morning on this uniform 60-hour week, and I personally do not believe that any pulpwood logging crew works a uniform 60-hour week.

I think it is a false statement.

Senator PROUTY. What would you think the average was?

Mr. ELROD. In the case of most of the producers who sell to me, I don't believe that the average workweek would exceed 35 hours.

As I say, the producers themselves don't know exactly how many hours the men work, and certainly I don't. But I do know that I see them coming into town at all hours of the day, and I see them leaving at all hours of the day.

They pretty well go and come as they please, and as weather conditions permit. They are about as independent a breed as there is left in the world. If they haul a load and get in at 1 o'clock in the afternoon, and they want to go fishing, they go fishing.

Senator PROUTY. Do I understand that basically they are paid on a cord basis for work of that nature?

Mr. ELROD. Yes, sir.

Senator PROUTY. You have no definite information with respect to the actual number of hours?

Mr. ELROD. I couldn't tell you, but I am positive in our area they could not average over 35-40 hours.

Senator PROUTY. I think that is all, Mr. Chairman.

Mr. ELROD. There are producers here from all over. They will be glad to give you the experience of their areas.

Senator MORSE. May I suggest you go ahead with the panel, and you call on the producers as supplemental witnesses. Let us hear the panel first, and then you may call any other witnesses you care to.

Mr. ELROD. Yes, sir.

If Senator PROUTY is fearful that he may have to leave, we would be happy for Mr. Renaud to make his statement first, so that his Senator might be present.

Mr. Renaud will speak for the northeast loggers.

Mr. FULBRIGHT. Mr. President, I had intended to offer language from the House bill as an amendment to the committee proposal. However, after noting the lack of success of other amendments offered during debate on this bill, I concluded that my amendment would have rough sledding. Therefore, I hope that the conferees on the part of the House of Representatives will be persuasive in defense of an eight-man crew exemption, and that the Senate conferees will be sympathetic to the views of the House.

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 489. An act to authorize the establishment of the San Juan Island National Historical Park in the State of Washington, and for other purposes;

S. 902. An act to provide that the Secretary of Agriculture shall conduct the soil survey program of the United States Department of Agriculture so as to make available soil surveys needed by States and other public agencies, including community development districts, for guidance in community planning and resource development, and for other purposes; and

S. 3034. An act to authorize the Secretary of the Interior to engage in feasibility investigation of certain water resource development proposals.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes

of the two Houses on the amendment of the House to the bill (S. 3688) to stimulate the flow of mortgage credit for Federal Housing Administration and Veterans' Administration assisted residential construction.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3700) to amend the Urban Mass Transportation Act of 1964.

SENATOR MURPHY'S ILLNESS

Mr. KUCHEL. Mr. President, I should like to inform the Senate that news from the west coast with respect to our esteemed colleague, GEORGE MURPHY, is good.

I know that I bespeak the prayers and affections which all of us share that he may continue to be on the mend and that before too long he may be with us again.

Mr. President, I have taken the liberty of expressing these sentiments to our colleague by wire.

FAIR LABOR STANDARDS AMENDMENTS OF 1966

The Senate resumed the consideration of the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

The PRESIDING OFFICER. The senior Senator from South Carolina [Mr. THURMOND] has the floor.

Mr. LAUSCHE. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER. Does the Senator yield to the Senator from Ohio?

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Ohio for 1½ minutes.

Mr. LAUSCHE. Mr. President, I send to the desk an amendment, which I intend to offer, that would strike from the bill the provision which brings within its operation sheltered workshops and homebound programs.

In the country we have enterprises operating not for profit which hire handicapped people. They hire the handicapped people in some instances in central places and in others by having them work directly in the home.

The bill pending before the Senate brings those sheltered workshops and homebound programs within the minimum wage law.

My amendment would strike from the bill that provision and direct that a study be made, to be completed within a reasonable time, recommending what course should be followed.

Mr. SALTONSTALL. Mr. President, will the Senator yield to me for 30 seconds?

Mr. LAUSCHE. Mr. President, I yield to the Senator from Massachusetts [Mr. SALTONSTALL].

Mr. SALTONSTALL. Mr. President, I have listened to the Senator from Ohio [Mr. LAUSCHE]. I am familiar with his

amendment. I know that it applies in Massachusetts to one of our Goodwill institutions, the Morgan Memorial, and to others. It means that people now working at home can take advantage of the opportunities that they have.

I hope that when the Senator offers his amendment the Senator from Texas [Mr. YARBOROUGH] will be willing to accept it, at least for conference.

Mr. LAUSCHE. Mr. President, will the Senator from South Carolina yield me 2 minutes?

Mr. THURMOND. Mr. President, I should like to have my amendment stated. I have been waiting for a long time to do so. However, if someone wishes me to yield, I am glad to accommodate him.

Mr. JAVITS. Mr. President, I will yield 2 minutes to the Senator from Ohio on the bill, if the Senator from South Carolina will allow it.

Mr. THURMOND. I thought the Senator from Ohio had finished. The Senator is not finished?

Mr. LAUSCHE. No.

Mr. THURMOND. I yield 2 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 2 minutes.

Mr. LAUSCHE. Mr. President, let me point out that the Secretary of Labor, in connection with these sheltered workshops, appointed an advisory committee to recommend how they should be handled under Federal law. The committee appointed by the Secretary of Labor thinks that this provision in the bill is wrong. I therefore believe that when the Secretary of Labor has appointed a committee to make a study, we should wait before we do it. We should listen to him.

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. THURMOND. Mr. President, I ask unanimous consent that I may yield to the Senator from Vermont to bring up an amendment, after which I will then bring up mine.

The PRESIDING OFFICER. Does the Senator ask unanimous consent?

Mr. THURMOND. Yes. I ask unanimous consent—

The PRESIDING OFFICER. The Senator asks unanimous consent that his amendment be temporarily laid aside?

Mr. THURMOND. That is right.

The PRESIDING OFFICER. Without objection, it is so ordered, and the Senator from Vermont is recognized.

Mr. PROUTY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The assistant legislative clerk read the amendment as follows:

On page 37, line 8, strike the figure "\$250,000" and insert in lieu thereof the figure "\$350,000".

Mr. PROUTY. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 2 minutes.

Mr. PROUTY. This amendment provides a floor of \$350,000, instead of a floor of \$500,000 which was proposed by the minority leader.

Any retail business with gross sales of less than \$350,000 is a small business at the smallest possible level. A net of 10 percent of gross is high, but assuming that figure, the net profit would be only \$35,000.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. YARBOROUGH. Mr. President, I should like to point out that this is an identical amendment to the one which has just been voted on which was offered by the Senator from Illinois [Mr. DIRKSEN], except that the amount has been changed and the exemption has been lowered from \$500,000 to \$350,000, instead of to \$250,000.

I again point out that the \$250,000 floor was adopted after long and careful study in House and Senate. It was adopted on the floor of the House. It was voted on in the Senate Committee on Labor and Public Welfare by a vote of 13 to 1 and in the full committee by a vote of 15 to 0—no member of either party voting against it.

With that strong record of bipartisan support, thinking that they had the right floor based on the amendment of the Senator from Arkansas [Mr. FULBRIGHT], who put that in the bill in 1961 as to an establishment, the pending amendment would lower it to bring in other enterprises which have multiple units. I think that the \$250,000 is well in line with what was put in by the Senator from Arkansas in 1961.

I therefore recommend that the amendment of the Senator from Vermont [Mr. PROUTY] be defeated.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Vermont [Mr. PROUTY].

On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Tennessee [Mr. BASS], the Senator from Idaho [Mr. CHURCH], the Senator from Pennsylvania [Mr. CLARK], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. HARRIS], the Senator from Missouri [Mr. LONG], the Senator from Montana [Mr. METCALF], the Senator from Oklahoma [Mr. MONRONEY], and the Senator from Maine [Mr. MUSKIE], are absent on official business.

I also announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Indiana [Mr. HARTKE], the Senator from Arizona [Mr. HAYDEN], and the Senator from New Hampshire [Mr. MCINTYRE], are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], and the Senator from Pennsylvania [Mr. CLARK], would each vote "nay."

On this vote, the Senator from Maryland [Mr. BREWSTER] is paired with the Senator from Oklahoma [Mr. HARRIS]. If present and voting, the Senator from Maryland would vote "yea" and the Senator from Oklahoma would vote "nay."

On this vote, the Senator from Missouri [Mr. LONG] is paired with the Senator from Oklahoma [Mr. MONRONEY]. If present and voting, the Senator from Oklahoma would vote "yea" and the Senator from Missouri would vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from California [Mr. MURPHY] are absent because of illness.

The Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK] are absent on official business.

The Senator from Idaho [Mr. JORDAN] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

The Senator from Pennsylvania [Mr. SCOTT] is detained on official business.

If present and voting, the Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK], the Senator from Utah [Mr. BENNETT], the Senator from California [Mr. MURPHY], and the Senator from Wyoming [Mr. SIMPSON] would each vote "yea."

On this vote, the Senator from Idaho [Mr. JORDAN] is paired with the Senator from Pennsylvania [Mr. SCOTT]. If present and voting, the Senator from Idaho would vote "yea," and the Senator from Pennsylvania would vote "nay."

The result was announced—yeas 41, nays 38, as follows:

[No. 227 Leg.]

YEAS—41

Aiken	Fulbright	Prouty
Bayh	Griffin	Robertson
Bible	Hickenlooper	Russell, S.C.
Byrd, Va.	Hill	Russell, Ga.
Cannon	Holland	Saltonstall
Carlson	Hruska	Smathers
Cooper	Jordan, N.C.	Sparkman
Cotton	Lausche	Stennis
Curtis	McClellan	Talmadge
Dirksen	McGovern	Thurmond
Eastland	Miller	Tower
Ellender	Morton	Williams, Del.
Ervin	Mundt	Young, N. Dak.
Fannin	Pearson	

NAYS—38

Anderson	Kennedy, Mass.	Neuberger
Boggs	Kennedy, N.Y.	Pastore
Burdick	Kuchel	Pell
Byrd, W. Va.	Long, La.	Proxmire
Case	Magnuson	Randolph
Dodd	Mansfield	Ribicoff
Douglas	McCarthy	Smith
Fong	McGee	Symington
Gore	Mondale	Tydings
Hart	Montoya	Williams, N.J.
Inouye	Morse	Yarborough
Jackson	Moss	Young, Ohio
Javits	Nelson	

NOT VOTING—21

Allott	Dominick	McIntyre
Bartlett	Gruening	Metcalf
Bass	Harris	Monroney
Bennett	Hartke	Murphy
Brewster	Hayden	Muskie
Church	Jordan, Idaho	Scott
Clark	Long, Mo.	Simpson

So Mr. PROUTY's amendment was agreed to.

Mr. DIRKSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROUTY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from South Carolina (No. 772).

How much time does the Senator from South Carolina yield himself?

Mr. THURMOND. I yield myself 5 minutes, and I think we can dispose of the amendment in that time.

Mr. President, the purpose of this amendment is to provide an exemption, for overtime only, for ambulance drivers and attendants.

Among the many exemptions for overtime purposes now included in the act, and unchanged by the pending bill, are those for drivers, operators, and conductors of streetcars and similar conveyances, and also taxicab drivers. Although ambulance drivers and attendants do not fall in exactly the same category, there is a similarity, even though ambulance service is of a more essential nature to the public.

Recently, in the State of South Carolina, many funeral homes that operate ambulances and other private operators have gone out of business completely or stated their intention of doing so mainly because of a crackdown by the Wage and Hour Division of the Department of Labor applying both minimum wage and overtime provisions to ambulance service. The essentiality of this service cannot be over estimated. It is one which must be provided; and if it cannot be provided by private enterprise, then it must be provided at taxpayers' expense at some level of local government.

As all Senators are aware, ambulance drivers and attendants who provide service on an emergency basis must be on call 24 hours a day. This means that a certain number of employees must remain on the premises throughout the night, ready to answer any emergency call, even though, in fact, there may be none. In a situation such as this, the Wage and Hour Division of the Department of Labor takes the position that any hours over 40 hours per week would be compensable at time and a half. Mr. Clarence T. Lundquist, the Administrator of the Wage and Hour and Public Contracts Division of the Department of Labor, stated the situation in a letter to me in this way:

Thus, an employee who is not required to remain on the employer's premises but is free to engage in his own pursuits, subject only to the understanding that he leave word at his home or with his employer where he may be reached, is not working while "on-call" for purposes of the Act.

This is little solace to the employers who must have drivers and attendants on duty at their place of business and cannot afford the time necessary to call them from wherever they may be to come to the place of business before answering an emergency ambulance call.

Mr. Lundquist further stated in his letter to me that—

Unless the Act provides a specific exemption, employees performing covered work are required to be paid a minimum wage of at least \$1.25 an hour and overtime compensation of not less than one and one-half times an employee's regular rate of pay for the hours over 40 in a work week. The statute does not provide any authority for the waiver of its requirements.

The strict application of this policy has worked serious hardships upon many small, rural communities in the State of South Carolina who have depended in the past for ambulance service provided by funeral homes and other independent operators. It is difficult, if not impossible, to provide this service at taxpayers' expense without adding significantly to the tax rate of the residents. I believe the amendment I have offered would allow some of the private operators to remain in business, and I urge its adoption.

Again, Mr. President, I wish to say that this amendment applies only to overtime, and only for ambulance drivers and attendants. The people operating these businesses cannot keep these drivers there 24 hours a day and pay them overtime for all above 8 hours. They just cannot pay it. It is putting them out of business in a great many places.

The PRESIDENT OFFICER. The Senator's time has expired.

Mr. THURMOND. I yield myself 1 additional minute.

In a great many places, the ambulance companies have gone out of business entirely, and the public is suffering.

This is a reasonable amendment; it is fair and just. In fact, only recently did the Department bring the ambulance drivers under the minimum wage provisions at all. They were not even considered to come under it, or the provisions were not being enforced. Now it has been held that they have got to pay overtime, as well as being under the minimum wage provisions.

I hope that the Senate, from a practical standpoint, will agree to this amendment. It is a sound amendment. It will help all the communities throughout this Nation, especially the small towns and rural communities, and other places if they expect to have ambulance service.

Mr. President, I reserve the remainder of my time.

Mr. YARBOROUGH. Mr. President, I yield myself 3 minutes.

Under the bill, funeral homes are covered both as to wages and hours of overtime, if they meet the enterprise test, that is, if they have enough business. Taxicabs and airport limousine services are covered as well.

With these other types of services competing with the ambulance services, it would give the ambulance services an unfair competitive advantage if they were excluded, while taxicabs, airport limousine services and funeral homes are not excluded.

Furthermore, under regulations already in effect, promulgated by the Labor Department, where an employee is required to be on duty 24 hours or more, they take out his sleeping time and they take out his mealtime. Regulations now in existence cover that situation. He has 8 hours' sleeping time subtracted, if he is on duty 24 hours, and all of his mealtime is subtracted. That is not counted now.

So the problem to which the distinguished Senator from South Carolina refers is already covered by regulations;

and due to the fact that the adoption of his amendment would give the ambulance services a competitive advantage over other people who have been brought under the bill, we think it would be unfair to the others, such as the funeral homes, the taxicab companies, and the airport limousines or other type limousines. Therefore, I urge that the amendment be rejected.

The PRESIDING OFFICER. Does the Senator from South Carolina yield back the remainder of his time?

Mr. THURMOND. Mr. President, I yield back the remainder of my time, and, in order to save time, instead of asking for the yeas and nays, I call for a division.

The PRESIDING OFFICER. Does the Senator from Texas yield back the remainder of his time?

Mr. YARBOROUGH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from South Carolina. All those in favor of the amendment will rise.

The Senate proceeded to divide.

The PRESIDING OFFICER. Senators who have been counted, will be seated. All those opposed will rise.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

Mr. TALMADGE. Mr. President, has the Chair announced the result of the vote on the amendment?

Mr. YARBOROUGH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair has not announced the result, and it is the understanding of the Chair, as he is informed by the Parliamentarian, that if the result has not been announced, the request for a yea-and-nay vote is in order.

Mr. THURMOND. Is the Senator from Texas requesting a rollcall?

Mr. YARBOROUGH. I have asked for the yeas and nays.

Mr. THURMOND. I was merely trying to save time.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from South Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. JAVITS (after having voted in the negative). On this vote, I have a pair with the Senator from Nebraska [Mr. HRUSKA]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. LONG of Louisiana. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Tennessee [Mr. BASS], the Senator from Idaho [Mr. CHURCH], the Senator from Pennsylvania [Mr. CLARK], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. HARRIS], the Senator from Missouri [Mr. LONG], the Senator from Montana [Mr. METCALF], the Senator from Oklahoma [Mr. MONROE], and the Senator from Maine [Mr. MUSKIE] are absent on official business.

I also announce that the Senator from Maryland [Mr. BREWSTER], the Senator from West Virginia [Mr. BYRD], the Senator from Indiana [Mr. HARTKE], the Senator from Arizona [Mr. HAYDEN], and the Senator from New Hampshire [Mr. MCINTYRE] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], the Senator from Maryland [Mr. BREWSTER], the Senator from Pennsylvania [Mr. CLARK], the Senator from Alaska [Mr. GRUENING], and the Senator from Missouri [Mr. LONG] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from California [Mr. MURPHY] are absent because of illness.

The Senators from Colorado [Mr. ALLOT] and Mr. DOMINICK are absent on official business.

The Senator from Idaho [Mr. JORDAN] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

The Senator from Nebraska [Mr. HRUSKA] and the Senator from Pennsylvania [Mr. SCOTT] are detained on official business.

If present and voting, the Senator from Colorado [Mr. DOMINICK], the Senator from Utah [Mr. BENNETT], the Senator from California [Mr. MURPHY] and the Senator from Wyoming [Mr. SIMPSON] would each vote "yea."

The pair of the Senator from Nebraska [Mr. HRUSKA] has been previously announced.

On this vote, the Senator from Idaho [Mr. JORDAN] is paired with the Senator from Pennsylvania [Mr. SCOTT]. If present and voting, the Senator from Idaho would vote "yea" and the Senator from Pennsylvania would vote "nay."

The result was announced—yeas 34, nays 42, as follows:

[No. 228 Leg.]

YEAS—34

Aiken	Fannin	Russell, S.C.
Bible	Hickenlooper	Russell, Ga.
Boggs	Hill	Smathers
Byrd, Va.	Holland	Sparkman
Cannon	Jordan, N.C.	Stennis
Cooper	Lausche	Talmadge
Cotton	McClellan	Thurmond
Curtis	Miller	Tower
Dirksen	Morton	Williams, Del.
Eastland	Mundt	Young, N. Dak.
Ellender	Prouty	
Ervin	Robertson	

NAYS—42

Anderson	Kennedy, Mass.	Neuberger
Bayh	Kennedy, N.Y.	Pastore
Burdick	Kuchel	Pearson
Carlson	Long, La.	Pell
Case	Magnuson	Proxmire
Dodd	Mansfield	Randolph
Douglas	McCarthy	Ribicoff
Fong	McGee	Saltonstall
Fulbright	McGovern	Smith
Gore	Mondale	Symington
Griffin	Montoya	Tydings
Hart	Morse	Williams, N.J.
Inouye	Moss	Yarborough
Jackson	Nelson	Young, Ohio

NOT VOTING—24

Allott	Dominick	Long, Mo.
Bartlett	Gruening	McIntyre
Bass	Harris	Metcalfe
Bennett	Hartke	Monroney
Brewster	Hayden	Murphy
Byrd, W. Va.	Hruska	Muskie
Church	Javits	Scott
Clark	Jordan, Idaho	Simpson

So Mr. THURMOND's amendment was rejected.

LEGISLATIVE PROGRAM

Mr. DIRKSEN. Mr. President, I should like to ask the distinguished majority leader what the schedule will be for next week. I am assuming, of course, that we will finish the bill tonight and go over until Monday.

The PRESIDING OFFICER. The Senate is not in order. Senators cannot hear the colloquy between the leaders.

Mr. MANSFIELD. Mr. President, when we finish the bill this evening—and the prospects seem fair—it is the intention of the leadership to have the Senate go over until noon on Monday.

At that time, the pending business will be food for freedom. We hope that will be followed by such measures as narcotics, parcel post, Oregon Dunes, perhaps elementary and secondary education bill or comprehensive health, if reported by the Committee on Labor and Public Welfare; child safety, and, if possible, the Labor HEW appropriation bill.

Then we have some conference reports of significance—the defense appropriation bill, which may cause some discussion; the military construction bill, which will be ready on Monday; and the auto safety bill.

ORDER FOR ADJOURNMENT UNTIL MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, if the pending business is completed this evening, the Senate stand in adjournment until 12 o'clock noon, Monday, next.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

HIGH INTEREST RATES

Mr. GORE. Mr. President, for weeks now, I have addressed the Senate almost daily on the State of our economy, with particular emphasis on the imbalances, distortions, hardships, and profiteering which have been caused in large part by tight money and high interest rates.

The entire burden of the anti-inflation fight has been allowed to fall on monetary policy. Those who govern monetary policy, never loath to raise interest rates, have, in my view, used this as an excuse to increase interest rates to the highest level since the administration of Warren G. Harding, 45 years ago.

I have cited the difficulties caused by high interest rates to homebuilding and related industries, automobiles sales, home appliance sales and to the mass of our people generally. I have pointed out distortions in income caused by high interest rates, beneficial to those who have accumulated wealth, and detrimental to those who must borrow, buy, or build on time. We have seen, too, the distortions in the proportion of personal income which must be paid out in interest payments.

From day to day, interest rates on home mortgages, on installment credit, on bank loans, on bonds for needed community programs have advanced to new heights.

The constant rise in the cost of living and interest rates are bringing hardship, discouragement, and uneasiness to millions of people.

While condemning the current edition of the Mellon-George Humphrey-Dillon policies and the reinstitution of the "trickle-down" theory, I have admonished President Johnson to return to the traditions of the Democratic Party.

Since President Johnson is speaking in Oklahoma today, it might be appropriate to recall that when President Kennedy spoke in Oklahoma on November 3, 1960, he suggested that Rip Van Winkle could go to sleep and wake up and find out whether Republicans or Democrats were in control by asking how high the interest rates were. I do not believe President Johnson, whose interest rates are now higher than the Hoover rates, will wish history to record him as one whose policies robbed the Democratic Party of its heritage of being the party of the people.

Those who may be interested in reviewing my remarks will find them in the CONGRESSIONAL RECORD, particularly on July 28, page 16623; August 2, page 17117; August 3, page 17210; August 11, page 18167; August 12, page 18361; August 15, page 18574; August 16, page 18597; August 17, page 18866; August 18, page 18942; August 19, page 19166; August 22, page 19400; August 23, page 19418; August 24, page 19644; August 25, page 19776.

Mr. President, I have called upon President Johnson to take positive action. Certain administrative actions are open to the President without further legislation. Where legislation is needed, strong recommendations to the Congress are in order. Where executive leadership and action is indicated, these hard decisions and firm actions should not be delayed.

Unofficial information has come to me that the President is finally considering programs of action. I hope so. I shall now desist from further remarks on this general subject until after Labor Day. I hope sincerely that President Johnson will, by that time, lay before the Congress a plan for combating inflation and lowering interest rates.

Should forthright leadership be still lacking then, I shall advance concrete suggestions of my own as to what should be done to keep our economy moving along on an even keel, in balance, and with equity for all segments of our people and the business community. There is no chance of winning this battle, however, without firm will and action by the Chief Executive.

To illustrate widespread concern, I ask that certain letters from my mail today be printed at this point in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

COLLIERVILLE HIGH SCHOOL,

Collierville, Tenn., August 22, 1966.

HON. ALBERT GORE,
U.S. Senate,
Washington, D.C.

DEAR ALBERT: Boy, am I proud of you for getting after those "Money Changers" so well. It does a lot of us great good to see you

performing so well in the interest of the American people.

Congratulations! Keep up the good work. Hit 'em hard—I'm cheering for you! Kindest personal regards.

Yours truly

HERMAN OSTEEN.

THE FISHER CO.,

Clarksville, Tenn., August 23, 1966.

HON. ALBERT GORE,
Member of Congress,
Senate Office Building,
Washington, D.C.

DEAR SENATOR GORE: We have been following with interest the one man campaign you have been waging on the senate floor against the rising cost of money.

Since last December the vicious cycle of steadily increasing of interest rates has virtually sapped up all of the profits a builder must make to stay in business. It is working a tremendous hardship on young couples desiring to buy a new home, but suddenly find out, because of interest rate increases they can no longer qualify for a VA or FHA loan.

We in the building business, have tried to provide a needed service in our communities, but with the present rise in cost of materials and having to pay 6 to 9 point discount on loans, we are being forced out of business.

If the Administration doesn't do something to stabilize the money market soon, you should recommend they pass another "poverty program" for bankrupt builders on a national scale. Since the "give away program" is so popular in Washington now, maybe this would appeal to some of our so-called "Great Society" economists.

Keep up the good work and keep talking. Yours very truly,

H. E. FISHER.

PULASKI, TENN.,

August 23, 1966.

HON. ALBERT GORE,
Senate of the United States,
Washington, D.C.

DEAR SENATOR GORE: My wife, Ruth Elaine, and I want you to know that we are very pleased with the fight you are waging against high interest rates. That has never been the policy of the Democrat Party and we can not see why that policy should change. We do appreciate what you are doing and hope your efforts will be successful.

Sincerely,

J. M. HOBBS.

TENNESSEE SCHOOL BOARDS ASSOCIATION,
August 24, 1966.

HON. ALBERT GORE,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR GORE: I have read with interest your recent statements concerning higher interest rates and inflation. You are to be commended for the stand you are taking so I simply want to encourage you to continue the fight.

With best wishes, I remain,
Sincerely yours,

JULIAN BREWER,
Executive Secretary.

INDUSTRIAL PRODUCTS CO., INC.,
Mount Pleasant, Tenn., August 23, 1966.
Senator ALBERT GORE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR GORE: We note that you are trying to do something about the high interest effect on new housing. We manufacture insulation and with our associated applicator companies, there are some seventy-five people whose living depends on making and selling insulation for houses. In addition to us, there are our customer ap-

placators who are solely dependent on insulating houses and other buildings. There are many dealers in Tennessee who sell not only insulation, but other materials for new houses. All are affected by the high interest rate and our business as well as it is falling off rapidly.

We trust that you and others will be able to do something about it soon.

Very respectfully yours,

W. F. HUDSON,
Vice President.

NASHVILLE, TENN., August 26, 1966.

HON. ALBERT GORE,
Senate Office Building,
Washington, D.C.:

A Republican who votes for some real fine Democrats wishes to express his appreciation for your effort in behalf of those who need housing and those who need to make a living providing same.

Every good wish.

ALBERT G. MORRIS.

THE GILES FREE PRESS,
Pulaski, Tenn., August 24, 1966.

U.S. Senator ALBERT GORE,
1311 New Senate Office Building,
Washington, D.C.

DEAR SENATOR: We thought you might be interested in our attached comments on the present interest rate rise.

Sincerely,

D. L. HOOVER.

[From the Pulaski (Tenn.) Giles Free Press,
Aug. 24, 1966]

INTEREST SPIRAL NEEDS EYEING

As interest rates continue to soar and economists find it difficult to agree why this nation is faced with a "tight" money situation today, we are delighted that Tennessee's Senator ALBERT GORE has come to the forefront in the fight to have the situation thoroughly scrutinized.

It is obvious that the situation is complex, but, to us, it is just as obvious that the matter has become one of such national importance that the Federal government should leave no stone unturned in seeking out the real reasons for the soaring cost of credit, and, if need be, should act with all haste to reverse the upward trend if it is found to be unreasonable or dangerous to the nation's economic well-being. We cannot believe that a nation as powerful, wealthy, and resourceful as this one must inevitably be faced with any serious depression of the economy.

Above all, the truth about the control of this nation's wealth must be bared. In times of turmoil, economic or otherwise, all manner of rumor and half-truth emerge. It is our feeling that the Federal leadership has the obligation to ferret out the truth and display it in terms that can be understood by the layman. Should it emerge that any unwarranted manipulation of the economy is underway by any industry or group, the American public is entitled to protective legislation on the part of the Federal Government.

There is one question which we would in particular like to see explored. It has been said that much of the "tight money" situation existing in the home mortgage field has been prompted by a desire to force the rates up in the few remaining states (Tennessee included) which have a 6% ceiling on interest charges. We have even heard it said that the insurance industry, which underwrites many loans, is keeping mortgage money out of Tennessee and the few other 6% states in a calculated move to "starve" the legislatures into taking the interest rate lid off. This situation may or may not be true, and the alleged practice may or may not be justifiable, but the American public is entitled to know the truth of the matter.

We have also heard it said, in this regard, that the insurance industry in this country today controls 70% of the nation's money? Is this true? If so, is it a healthy economic situation? Is there any danger that such a situation could lead to the birth of an economy-strangling "money trust"? The American people are entitled to a Federal investigation which would reveal the facts of the matter.

Many of those who have looked back upon the great depression of 1929 have said that it came about because too few special interest groups were able to corner too much of the nation's wealth. If this is true, it would seem obvious that the people of this country are entitled to any necessary safeguards which would prevent a repeat of this precipitating fact.

We commend Senator GORE for his efforts to prod the Congress and the Johnson Administration into positive action to seek and maintain a strong national economy. We hope his efforts soon bear fruit.

AUGUST 23, 1966.

Senator ALBERT GORE,
Senate Office Building,
Washington, D.C.

DEAR SIR: It is certainly gratifying to know that someone is in Washington to stand up and be counted. I am very sure you will be remembered for the stand you are taking on this high cost of money.

It is most discouraging to me to think that the rich take advantage of the poor in this manner.

Our farm debts are getting out of hand and will be more so as money goes up. The farmers' economic condition is such that he has to continue to borrow for his continuance in farming.

I want to congratulate you on the stand you are taking and I hope something can be done about it.

Yours truly,

GALLATIN, TENN.

HON. ALBERT GORE,
U.S. Senate Building,
Washington, D.C.

DEAR SENATOR GORE: I have just finished reading the enclosed articles which appeared in the August 21 issue of the Knoxville News Sentinel. It makes my wife and myself very proud to know that there is someone left in Washington who will take a firm stand for what he believes to be the right. Also that this includes pointing the accusing finger at the executive branch of the Government when the need arises.

It is disgusting and alarming to see graft, political double-dealing, favoritism and all sorts of mal-practice which sometimes are not only approved of but sponsored by the White House. In reading about your speeches on the Senate floor in regards to the Internal Revenue Dept. and the high interest rates it makes me beam with pride that the state of Tennessee has a statesman such as you representing my interests.

When we read of favoritism being openly approved of by the Internal Revenue people, it makes us wonder if there is any chance for the poor average working man struggling to support his family. We cannot submit tax returns proud with the knowledge that we have made, with great personal sacrifice, our contribution toward the support of a government which condons and disregards the working masses for favors to big business. We, as individuals are convinced that we could put our tax monies to better use at home by using it to finance such luxuries as an extra helping of some of Johnson's high priced food.

When I read the accounts of your conduct

on the Senate floor in these matters I wanted to run outside and give a good old Rebel yell. Now I think maybe some people in high places have started to see things as the man in the street has been seeing them. Perhaps someday some of these Harvard economists can be replaced by men who have practiced the gentle art of balancing a family budget. When this day comes these same men may want to see what peace will do to the economy of the country.

Thank you again sir for speaking out for me.

W. D. BUCHANAN.

FAIR LABOR STANDARDS AMENDMENTS OF 1966

The Senate resumed the consideration of the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

Mr. MILLER. Mr. President, I now call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MILLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 52, strike lines 14 through 17 and insert in lieu thereof the following:

"(1) not less than \$1.40 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966 and thereafter, commencing at 12-month intervals, not less than such greater amount as will compensate for the increase in the retail consumer price index during the preceding 12 months as computed by the Bureau of Labor Statistics, except as otherwise provided in this section;"

On page 53, strike lines 11 through 15 and the first two words in line 16 and insert in lieu thereof the following:

"(5) if such employee is employed in agriculture, not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966 and thereafter, commencing at 12-month intervals, not less than such greater amount as will compensate for the increase in the retail consumer price index during the preceding 12 months as computed by the Bureau of Labor Statistics."

On page 54, strike lines 13 through 21 and insert in lieu thereof the following: "not less than \$1 an hour during the first year from the effective date of such amendments and thereafter, commencing at 12-month intervals, not less than such greater amount as will compensate for the increase in the retail consumer price index during the preceding 12 months as computed by the Bureau of Labor Statistics."

Mr. MILLER. I yield myself 5 minutes.

I might say to my colleagues that I think I can save some time, if they wish to be present, because I believe that the amendment can be disposed of very shortly; and I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. MILLER. Mr. President, I have discussed this amendment with the distinguished Senator from Texas, the manager of the pending bill, and I believe

that he understands the amendment. It is quite simple.

All the amendment does is to take up the step up to \$1.40 in the case of the general coverage of the bill, the \$1 in the case of agricultural workers, and the \$1 in the case of newly covered employees, and that part of the bill is left intact. But the next step up will be in accordance with the cost of living.

My amendment provides that at each 12-month interval following the date on which the \$1.40 and the \$1 minimum wages go into effect, there will be an increase in the minimum wage to compensate for the increase in the retail price index as computed by the Bureau of Labor Statistics.

I have heard a great deal of conversation about this bill being inflationary. Let me say, Mr. President, that I think a strong argument can be made for the fact that the increase to \$1.40 from \$1.25 will not be inflationary; because, as of next February 1, I believe that the increase in the cost of living can be projected, and it will be found that the \$1.40 next February 1 will be worth no more than about \$1.25 at the time the \$1.25 minimum went into effect.

But with respect to subsequent increases, I believe a valid argument can be made that to the extent that these increases exceed the increase in the cost of living, this bill will be inflationary.

I must say that I do not know why this would not be a fair amendment. We start out with \$1.40, and then we say to the people covered by the minimum wage:

At the next interval of 12 months, your minimum wage will be increased to compensate you for the increase in the retail price index in the cost of living.

So that they will be able to ride along with the increase due to inflation, if we have it. Of course, we hope that we will not have it; but if we do, this is an insurance to them that their \$1.40 minimum will not be diluted by inflation.

Mr. President, I reserve the balance of my time.

Mr. YARBOROUGH. Mr. President, I yield myself 1 minute.

I agree with the distinguished Senator that this amendment would not be inflationary. It would be noninflationary. It would be deflationary, in pulling down these minimum wages provided, because under the Senator's amendment no wage could go over \$1.40 an hour except to meet price increases. So that for a 40-hour week, 8 hours a day, 5 days a week, that would be \$56 a week, or \$2,912 a year. Even with this continued cost of living, they could never get up to the poverty floor. Minimum wages would never even get to the \$3,000 poverty level.

This amendment says to the people: "Leave ye all hope behind, who depend on this minimum wage bill. Organize and strike is your only protection. By law, we are denying you protection."

Yes, this amendment is not inflationary. It is deflationary of the hopes of 29.6 million people who are under the present minimum wage law, whose wage would go up to \$1.40 an hour next year and to \$1.60 the next year, and it

is deflationary to the hopes of those who would be covered in 5 years. It takes the newly covered worker 5 years to get there. The distinguished Senator from Iowa would say: "No, you cannot get there in 5 years. You can never get there."

I recommend that the amendment be defeated.

Mr. MILLER. Mr. President, I yield myself 3 minutes.

This amendment is not deflationary at all. I think it is unfair to say that it is deflationary, especially when it calls for increases commensurate with the increase in the cost of living. I think it strikes a balance. It is not deflationary, and it is not inflationary. It is fair. It is fair because it enables people whose minimums we are setting now, starting next February 1, will be able to go up with the increase in the cost of living.

I do not know how anyone can be more fair than that. And when the Senator from Texas says that this will destroy the hopes of people who want to get up more, my answer is that they will get up if the increase in the cost of living requires that they be increased, and that is what this amendment would do.

I hope my amendment will be supported.

I yield back the remainder of my time.

Mr. YARBOROUGH. Mr. President, I yield myself 20 seconds.

I point out that 2 days ago I read a letter from the President of the Council of Economic Advisers, in which he said that this bill, with this modest increase, is noninflationary.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Iowa.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Tennessee [Mr. BASS], the Senator from Idaho [Mr. CHURCH], the Senator from Pennsylvania [Mr. CLARK], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. HARRIS], the Senator from Missouri [Mr. LONG], the Senator from Montana [Mr. METCALF], the Senator from Oklahoma [Mr. MONROE], and the Senator from Maine [Mr. MUSKIE] are absent on official business.

I also announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Louisiana [Mr. ELLENDER], the Senator from Indiana [Mr. HARTKE], the Senator from Arizona [Mr. HAYDEN], the Senator from New Hampshire [Mr. McINTYRE], and the Senator from Virginia [Mr. ROBERTSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], the Senator from Maryland [Mr. BREWSTER], the Senator from Pennsylvania [Mr. CLARK], the Senator from Louisiana [Mr. ELLENDER], and the Senator from Missouri [Mr. LONG] would each vote "nay."

Mr. KUCHEL. I announce that the

Senator from Utah [Mr. BENNETT], and the Senator California [Mr. MURPHY] are absent because of illness.

The Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK] are absent on official business.

The Senator from Idaho [Mr. JORDAN], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

The Senator from Pennsylvania [Mr. SCOTT] is detained on official business.

If present and voting, the Senator from Colorado [Mr. DOMINICK] would vote "nay."

On this vote, the Senator from Idaho [Mr. JORDAN] is paired with the Senator from Pennsylvania [Mr. SCOTT]. If present and voting, the Senator from Idaho would vote "yea" and the Senator from Pennsylvania would vote "nay."

On this vote, the Senator from Wyoming [Mr. SIMPSON] is paired with the Senator from California [Mr. MURPHY]. If present and voting, the Senator from Wyoming would vote "yea" and the Senator from California would vote "nay."

The result was announced—yeas 14, nays 63, as follows:

[No. 229 Leg.]

YEAS—14

Curtis	Holland	Stennis
Dirksen	Hruska	Thurmond
Eastland	Lausche	Tower
Fannin	Miller	Williams, Del.
Hickenlooper	Russell, Ga.	

NAYS—63

Aiken	Hill	Nelson
Anderson	Inouye	Neuberger
Bayh	Jackson	Pastore
Bible	Javits	Pearson
Boggs	Jordan, N.C.	Pell
Burdick	Kennedy, Mass.	Prouty
Byrd, Va.	Kennedy, N.Y.	Proxmire
Byrd, W. Va.	Kuchel	Randolph
Cannon	Long, La.	Ribicoff
Carlson	Magnuson	Russell, S.C.
Case	Mansfield	Saltonstall
Cooper	McCarthy	Smathers
Cotton	McClellan	Smith
Dodd	McGee	Sparkman
Douglas	McGovern	Symington
Ervin	Mondale	Talmadge
Fong	Montoya	Tydings
Fulbright	Morse	Williams, N.J.
Gore	Morton	Yarborough
Griffin	Moss	Young, N. Dak.
Hart	Mundt	Young, Ohio

NOT VOTING—23

Allott	Ellender	Metcalf
Bartlett	Grucning	Monroney
Bass	Harris	Murphy
Bennett	Hartke	Muskie
Brewster	Hayden	Robertson
Church	Jordan, Idaho	Scott
Clark	Long, Mo.	Simpson
Dominick	McIntyre	

So Mr. MILLER's amendment was rejected.

Mr. THURMOND obtained the floor.

Mr. YARBOROUGH. Mr. President, will the Senator yield to me?

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Texas for 1 minute.

Mr. YARBOROUGH. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. Russell of South Carolina in the chair). The Senate will be in order.

Mr. YARBOROUGH. Mr. President, this is an important matter with reference to those engaged in the business of fresh fruits and vegetables.

The distinguished Senator from Florida [Mr. HOLLAND] has been waiting patiently for 2 hours for a colloquy to clear

up an ambiguity which is of great interest to those in this industry.

Mr. President, I ask the Senator from South Carolina to yield 2 minutes.

Mr. THURMOND. Mr. President, I am glad to yield 2 minutes to the Senator from Florida [Mr. HOLLAND].

Mr. HOLLAND. I thank the Senator in charge of the bill, and the Senator from South Carolina [Mr. THURMOND]. Mr. President, there are various organizations handling fresh fruits and vegetables and other seasonable crops in fresh form who are concerned about the provisions of the exemptions from overtime contained in subsections (c) and (d) of section 204 of the bill.

I have discussed this matter with the Senator in charge of the bill and I think he understands why this concern has arisen.

First. In the title on this division of the bill, these words are used:

Agricultural processing employees handling fresh fruits and vegetables, which are generally considered processing.

Second. In the report of the committee the last sentence in item 12, page 15, it is stated:

In the case of agricultural or horticultural processing the present seasonal industry regulations and interpretations will be continued in effect.

In the third instance, in subsection (d), of section 204, line 13 on page 46 of the bill, reference is made to the "first marketing or first processing of agricultural or horticultural commodities."

Mr. President, I believe that I know from the contents of subsections (c) and (d) of section 204 that the committee meant these general terms to apply to the handling of fresh fruits and vegetables by the customary handlers. For that reason, I have prepared a brief colloquy which I should like to introduce at this time in order to make the legislative history.

I should like to ask the manager of the bill, the distinguished Senator from Texas, for clarification of the legislative intent with respect to the handling, packing, storing, and preparing of fresh fruits and vegetables.

Reference is made to the last item in paragraph 12 on page 15 of the report that states:

In the case of agricultural or horticultural processing the present seasonal industry regulations and interpretations will be continued in effect.

The new section 7(d) of the bill makes provision for exemption of marketing, packing, handling, and storing of perishable commodities.

My questions are these: Does the word "processing," on page 15 of the report, to which I have referred, include all the different activities enumerated in section 7(d)?

Mr. YARBOROUGH. That is the opinion of the committee. That was the understanding of the committee in writing the report. We intend for the Senate to pass the bill with that understanding, and to have that legislative history in the RECORD.

Mr. HOLLAND. In other words, the general term "processing" was intended to apply to those other operations in the

handling of seasonal and perishable fruits and vegetables, in the ones enumerated in section 7(d)?

Mr. YARBOROUGH. Yes.

Mr. HOLLAND. My second question is: Will those firms engaged in handling, packing, storing, and otherwise preparing fresh fruits and vegetables which are perishable be entitled to the two 10-week exemptions provided in the pending bill under sections 7(c) and 7(d) as they are now entitled to under the two 14-week exemptions under sections 7(b) (3) and 7(c) of existing law?

Mr. YARBOROUGH. Yes, that was the intention. That amendment was offered by the Senator from Oregon, who will affirm that. That was our understanding.

Mr. MORSE. Mr. President, will the Senator from Texas yield?

Mr. YARBOROUGH. I yield.

Mr. MORSE. I offered the amendment involving both questions which the Senator from Florida has just asked. The answers which the chairman of the subcommittee has just given the Senator coincide with my intent as the Senator who offered the amendment.

Mr. HOLLAND. I thank the Senator from Oregon and the Senator from Texas for their information. I wanted to make clear for the record that my understanding is, that in place of the combined 28-week exemption for such handlers of perishable fresh fruits and vegetables, there are provided two different 10-week provisions with limitation on the overtime as expressed in those sections, whereas the old provision was not limited; is that not correct?

Mr. YARBOROUGH. As written in the law.

Mr. JORDAN of North Carolina. Mr. President, will the Senator from Florida yield, before he relinquishes his right to the floor?

Mr. HOLLAND. I do not have the floor.

Mr. JORDAN of North Carolina. Mr. President, will the Senator from South Carolina yield me 1 minute?

Mr. THURMOND. Mr. President, I have the floor, and—

Mr. HOLLAND. Mr. President, I ask the Senator from South Carolina if he will yield me 1 minute in order that the Senator from North Carolina [Mr. JORDAN] may ask me a question or two with regard to the handling of agricultural commodities.

Mr. THURMOND. Mr. President, I yield 1 minute to the Senator from Florida for that purpose.

The PRESIDING OFFICER. The Senator from Florida is recognized for 1 minute.

Mr. JORDAN of North Carolina. I thank the Senator. I wanted to check on page 15 of the Fair Labor Standards Act of 1966 with reference to the "agricultural or horticultural processing the present seasonal industry regulations and interpretations will be continued in effect."

That is what the bill does?

Mr. YARBOROUGH. What is the Senator reading from?

Mr. JORDAN of North Carolina. From the committee report on page 15.

Mr. YARBOROUGH. Yes. That is a correct statement.

Mr. JORDAN of North Carolina. That would take care of that section as intended?

Mr. YARBOROUGH. The language which the distinguished Senator from North Carolina has just read is as printed in the report, and is the last sentence of the fifth paragraph on page 15.

Mr. JORDAN of North Carolina. That would take care of tobacco warehouses, redrying, and so forth, including auction warehouses?

Mr. YARBOROUGH. We have had clarification of tobacco earlier. I do not care to go into the tobacco situation at this time. I am not an expert on tobacco.

Mr. JORDAN of North Carolina. However, that would be covered under the committee language?

Mr. YARBOROUGH. Yes, it will be. We accept that.

Mr. JORDAN of North Carolina. The Senator accepts that. I thank him very much.

Mr. HOLLAND. Mr. President, I thank the Senator from Texas and the Senator from North Carolina.

Mr. YARBOROUGH. I thank the Senator from Florida and the Senator from North Carolina for clarifying this point.

Mr. COOPER. Mr. President, will the Senator from Texas yield?

Mr. YARBOROUGH. I yield.

Mr. COOPER. I should like to address two questions to the distinguished Senator for his interpretation.

Mr. YARBOROUGH. Yes, I shall be glad to do so, if he will obtain time from the Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. I yield 2 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 2 minutes.

Mr. COOPER. I turn now to section 204 of the bill which is entitled "Agricultural Processing Employees." Section 7(b) of the present law provides 14-week exemptions from overtime for industries found by the Secretary to be "of a seasonal nature." The Secretary has declared the tobacco industry to be a seasonal industry, such that under the present industry regulations and interpretations of the Secretary, the following qualify for this exemption: Tobacco auction warehouses, tobacco redrying processors, and tobacco storage.

Section 7(c) of the committee bill provides an exemption to "an industry found by the Secretary to be of a seasonal nature." The committee report on page 15 in explaining section 7(c) states:

In the case of agricultural or horticultural processing the present seasonal industry regulations and interpretations will continue in effect.

My question is: Will the "present seasonal industry regulations and interpretations" continue to be in effect with respect to, first, tobacco auction warehousing, second, tobacco redrying processors, and third, tobacco storage, such that they will continue to qualify for this

exemption under the committee bill as under existing law?

Mr. YARBOROUGH. The answer to the Senator's question is in the affirmative. This is similar to the question asked by the Senator from North Carolina [Mr. JORDAN] a few months ago; but, at that time, I did not have the language of the report and prior law before me. The answer is yes.

Mr. COOPER. Then the committee bill, if it should become law, is not intended to make any change with respect to the treatment of such tobacco warehousing, storage and processing as I have described?

Mr. YARBOROUGH. No, not as the Senator has described it. This kind of tobacco is not intended to have any change.

Mr. COOPER. I thank the Senator.

Mr. THURMOND. Mr. President, I call up my amendment No. 771. It will take only a few minutes. We will have a voice vote, if that is acceptable to the Senator from Texas.

The PRESIDING OFFICER. The amendment offered by the Senator from South Carolina will be stated.

The legislative clerk read the amendment (No. 771), as follows:

On page 47, between lines 11 and 12, insert the following:

"(e) Section 13(a)(5) of such Act is amended by inserting after 'harvesting' the following: '(including shelling in the case of shellfish)'."

Mr. THURMOND. Mr. President, this amendment would exempt shellers of shellfish from both the minimum wage and overtime provisions of the Fair Labor Standards Act. It is an amendment to an existing exemption now found in section 13(a)(5) of that act which reads as follows:

SEC. 13(a)(5) any employee employed in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as an incident to, or in conjunction with, such fishing operations, including the going to and returning from work and loading and unloading when performed by any such employee;

This particular amendment would simply add to the existing exemptions individuals engaged in shelling of shellfish such as oysters and crabs.

On October 19 of last year, I introduced a bill which was the same as this amendment, and it was referred to the Senate Labor and Public Welfare Committee. Although the comments of the Department of Labor have been requested, they have not given as yet any response to the committee. Mr. President, although this may seem like a relatively minor item, considering the breadth of coverage of the Fair Labor Standards Act and the pending bill, this is in reality a very urgent and important matter. Prior to 1961, all employees engaged in harvesting, processing, or canning operations in the seafood industry were specifically exempted from the Fair Labor Standards Act. In that year, Congress adopted some broad and all-inclusive amendments to the basic act. Among the many changes was a

partial repeal for certain seafood industry workers, including the repeal of the exemption for shellers of shellfish.

Mr. Richard S. Knapp, who is president of the Tilghman Packing Co. of Tilghman, Md., has said that—

I know that the minimum wage has been harmful to the industry and to the nation's economy. Unless some relief is obtained, the crabpacking industry will suffer a prolonged decline, possibly leading to extinction.

Mr. President, I have received numerous letters from the people engaged in the industry expressing their concern for the survival of the industry if some relief is not granted. One of the best letters I have received, however, comes from a State official in the State of South Carolina, who has no direct or pecuniary interest in this industry other than in his position as chief of the shellfish section of the South Carolina State Board of Health. I would like to quote some of the comments he made to me in a letter shortly after I introduced this legislation last year:

Since taking over Public Health Control of this Industry in 1957, it has grown from some thirteen plants to forty odd plants doing several million dollars of business. Formerly the South Carolina Shellfish Industry was practically unknown, but is Nationally recognized both for its products as well as scientific advancements, all of which the State Board of Health is extremely proud.

As you are no doubt well aware, for generations the shucking (shelling) of oysters, has been conducted Nationally as well as in South Carolina on a unit basis, such payment for services being paid on a per gallon of oysters shucked (shelled).

This has allowed the employee to work at a pace suitable to his or her capacities and desires to earn more or less income, these (specialized) employees are as a rule well past middle age and have spent a life time following this endeavor and hence have no other skills.

The industry needs and desires these employees, but in face of present economics, competitive foreign markets, cannot afford to employ a large percentage of these people with low production capacities at the prevailing minimum wage rate. Hence in the face of loss of production in some Eastern Atlantic States and an extremely heavy volume demand for the product, production wise (though the natural product is available) the Industry is only employing about 20% to 40% of the available labor, in view of the wage law. As an example where shuckers were paid \$2.00 per gallon piece work, and produced say only 3 gallons during an eight hour period, the piece work scale would call for \$6.00 in an eight hour period, whereas the wage scale would demand a wage of \$10.00 (ten), bringing the unit cost up to \$3.33 per gallon, which in the face of market prices is prohibitive. As an opposite example, the fast, eager employee might produce on the unit rate more than the wage requirement, and thus be penalized, or the employee might just drop the efficiency rate and make the minimum wage creating a loss of production and financial loss both to the employee and operator.

In Beaufort County alone, we have three plants closed due to the wage law that would employ at least 100 persons and nine plants operating on less than 50% capacity.

In addition, Mr. President, I ask unanimous consent to have included in the CONGRESSIONAL RECORD an article which I wrote and which appeared in the magazine Fishing Gazette for February 1966, on this subject.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXEMPTION OR EXTINCTION

(Noting that inability to pay the minimum wage has caused the shutdown of many crab packinghouses, Senator STROM THURMOND, in an exclusive article for Fishing Gazette, discusses his bill to exempt shuckers from the minimum wage provisions of the Fair Labor Standards Act, the effect of which he calls "economic strangulation.")

Hasty action by Congress to improve the lot of crabpickers and other shellfishery workers has caused many of these workers to lose their jobs. This paradox of good intentions gone wrong is found by Senator STROM THURMOND in an industry beset by severe economic hardship resulting from application of the minimum wage.

Senator THURMOND is sponsor of a bill to exempt employees engaged in the shelling of shellfish from the minimum wage provisions of the Fair Labor Standards Act. Prior to 1961, all employees engaged in harvesting, processing or canning operations in the seafood industry were specifically exempted from coverage. In that year Congress adopted some broad and all-inclusive amendments to the Act. Among the many changes was the partial repeal of the exemption for certain seafood industry workers. "This particular provision was little noticed at the time," the Senator said, "but it has had a most serious impact on the economic stability of this segment of the industry, and has contributed substantially to unemployment along the whole of the Eastern Seaboard."

Since many of those who lost their jobs lack the skill and training to find other employment, he explains, they find themselves among the ranks of permanently unemployed and, depending upon the financial conditions of the family, may become wards of the state. "The inability to pay the minimum wage to the shellers has resulted in the complete shutdown of many packinghouses, thereby throwing out of work not only the shuckers but all employees of the plant," he said.

The South Carolina Republican legislator, who holds the distinction of being the first person ever elected to a major office in a write-in campaign, emphasizes that in at least one case the application of the minimum wage to the shellers has resulted in the failure of a segment of the industry of an entire state. The North Carolina Crab Packers Association voted unanimously to close all 18 major crab packingplants in the state because of the "economic strangulation" brought about by the application of the minimum wage laws, he said.

"The nature of the work and the generally accepted method of calculating payment made it impracticable, if not impossible, to apply minimum wage standards to shellers of shellfish. Within the industry, the established practice is to calculate payment on a unit basis. For example, oyster shellers are usually paid \$2 per gallon. Some shellers can naturally work much faster than others and during an eight-hour day may be able to earn well over the minimum wage required by law," Senator THURMOND explained.

"Shellers are, however, allowed to set their own work pace—and the vast majority do not earn, in an eight-hour day, the minimum required by law. These employees are essential to the operation of any packing plant, but it is a fact of economic life that competitive factors prevent the employment of the necessary numbers of employees with low production capacities at the prevailing wage rate."

Whether an artificial floor on wage rates can be maintained in the face of an increasingly competitive market situation, or whether productivity should determine the earnings of the employee was the crux of the matter, he said. "In this case, there is no ques-

tion in my mind but that the productivity of the employe must be the determining factor. The health and well-being of this essential industry requires that Congress take some action to restore its economic stability."

The Senator was convinced that his bill, designated S. 2671, to exempt shuckers from minimum wage requirements, "would go a long way toward preventing further plant closures and increased unemployment."

The bill, he said, "was prompted by the urgent pleas of those in the industry who had first-hand knowledge of the severe hardships caused by the application of the minimum wage."

A spokesman for the industry, Richard S. Knapp, president, Tilghman Packing Co., Tilghman, Md., told Fishing Gazette, "I know that the minimum wage has been harmful to the industry, and to the nation's economy. Unless some relief is obtained, the crab packing industry will suffer a prolonged decline, possibly leading to extinction."

"The results of the minimum wage provisions, since they were applied to the seafood industry in September, 1961, and particularly since the minimum rate was stepped up to \$1.25 per hour last September, have been to force some operations to slow down, raise the price of crabmeat to almost prohibitive levels, and prevent willing but less skilled people from working," he said. "This is certainly not in line with the government's expressed wishes for full employment or non-inflationary price increases."

MECHANICAL PICKER

"The government," Mr. Knapp observed, "must certainly recognize the problem in view of the hundreds of thousands of dollars spent in recent years to develop a mechanical picker. It would appear that many more years will be required to develop a machine that will be of any material help, and even then a good bit of hand labor will still be involved. It is very difficult for a packer to justify training new workers at the \$1.25 level when a month or two is required to develop any skill."

"Those people in the industry who have developed proper skills and who apply their skill, can make well over \$1.25 per hour. However, there are many more people, especially older women, who wish to engage in crab picking but who are prevented from it because of the minimum wage rate. These people generally do not find work elsewhere, and become reliant entirely on welfare or Social Security."

Mr. Knapp also was concerned about the seafood industry's exemption from the overtime provisions of the Fair Labor Standards Act, "and not just as it applies to picking or shucking shellfish." "Let's hope," he said, "that no one is really serious about removing this exemption. There are so many seasonal peaks and valleys in the seafood industry that freedom from overtime provisions is a must if the industry is to remain healthy."

"Good will to all men" impels crab packers to pay the minimum wage, but can the industry stand it, asks Romie L. Whorton, R. L. Whorton Crab Plant, Inc., Brunswick, Ga. He adds that at current labor costs, plants all over the country are closing.

The minimum wage requirement, Mr. Whorton said, disregards the fact that crab packers must train persons who have no education or work training of any kind, and are slow to take training. It is unfair for an industry to be told what it must pay a low order of unskilled workers, he said, pointing out that 20 percent of his own crab pickers had been trained by the company—which lost money while they learned their jobs.

Mr. Whorton saw the minimum wage provisions of the Fair Labor Standards Act as a grave threat to the survival of not only the shellfishery, but to all small industries. He

found cause for hope in Senator THURMOND's bill.

Mr. THURMOND. Mr. President, in closing, I just want to say the minimum wage law has already closed a number of these little plants in my State, and I feel sure it has done this in other States that have these fishing boats. If we want to give people employment, this is not the way to do it. They just cannot afford to pay these prices.

I hope the Senate, in its discretion, will see fit to exempt these people who cannot afford to pay these wages, and which will cause these little people to go out of business even more than they have.

Mr. YARBOROUGH. Mr. President, I yield myself 4 minutes in opposition to the amendment of the Senator from South Carolina; but to clarify the situation, on the last amendment submitted by the Senator from South Carolina, he said we would have a division vote. I did not agree to that. Now he said he wants a voice vote. I have not agreed to that, either. I want to make it clear that I have not agreed to a division or a voice vote.

Under present law, anybody engaged in the harvesting of fish, on a shrimp boat, an oyster boat, or a fishing boat, anyone engaged in the catching, taking, propagating, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, is exempt from the minimum wage law. The minimum wage and hour law does not apply to anyone on a shrimp, oyster, fishing or other boat, or one engaged in the harvesting of sponges or other life out of the sea.

Once the harvested seafood gets on land and is processed, the minimum wage law applies. Congress placed plants processing seafood under the minimum wage law in 1961.

There is no overtime provision with respect to the processing of seafood.

The only question involved is taking out of existing law some of the provisions that have been in the law since 1961, so that there will be no minimum wage requirements in the plants that shell shellfish or process other seafood on shore.

In view of the prices we pay for crab imperial, or a shrimp cocktail, or lobster, I do not think they are exactly the same as compared to farm products.

In order to take care of this problem, the Secretary of Labor has issued certificates for many handicapped workers, so that employers in the shellfish industry can pay substandard wages. Up until June 30, 1966, the Secretary of Labor had issued 669 certificates to handicapped persons to work in this industry. The handicapped persons—and it is a good industry for them in which to work—work for wages below the minimum wage. The Department of Labor has certified that these certificates constitute 25 percent of the handicapped-worker certificates in effect in all industries in the States.

The shellfish and crustacean industry

is a good place for the employment of handicapped workers. They can sit down while they work. The Secretary believes that the opportunities for handicapped workers would be disturbed if that provision were removed and able persons could work for less than the minimum wage.

I recommend that the committee position be supported by the Senate.

Mr. THURMOND. Mr. President, I yield myself 2 minutes.

In reply to the distinguished Senator from Texas, I merely say that a number of persons have already been thrown out of work along the coast in Virginia, North Carolina, South Carolina, and other States because the industry cannot pay these wages. A few moments ago I stated that hundreds of persons have been thrown out of this kind of work in my State. Others will be thrown out of work. They are marginal workers. Many of them have skills, and when they work fast, they can earn more money. They are paid on a unit basis. It is a question whether such persons can continue to be employed or will have to go on relief. That is what it amounts to. It seems to me that the only practical solution is to let them be paid on a unit basis, as they were paid prior to 1961.

Mr. YARBOROUGH. Mr. President, I yield myself a half minute.

Those who engage in processing on boats, such as the canning or packing of marine products at sea, or the fast freezing of shrimp, are exempt, because similar employment in plants on shore is exempt, and they come under the minimum wages that were in effect in 1961. The bill does not touch them. It does not go back to 1961.

Mr. ERVIN. Mr. President, will the distinguished Senator from South Carolina yield 2 minutes to me?

Mr. THURMOND. I am pleased to yield 2 minutes to the distinguished Senator from North Carolina.

Mr. ERVIN. Mr. President, I wish to associate myself with the remarks of the Senator from South Carolina, and urge the adoption of his amendment. This is a marginal industry, and in my State a great many processors have had to go out of business, simply because the industry does not permit the payment of the minimum wage as set by the Fair Labor Standards Act. So I urge that the amendment be agreed to.

Mr. YARBOROUGH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is all time yielded back?

Mr. YARBOROUGH. I yield back the remainder of my time.

Mr. THURMOND. I yield back the remainder of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

All time having been yielded back, the question is on agreeing to the amendment offered by the Senator from South Carolina (putting the question).

It appears to the Chair that the yeas have it.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

Mr. YARBOROUGH. Mr. President, I ask for the yeas and nays.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Tennessee [Mr. BASS], the Senator from Idaho [Mr. CHURCH], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. HARRIS], the Senator from Missouri [Mr. LONG], the Senator from Wyoming [Mr. MCGEE], the Senator from Montana [Mr. METCALF], the Senator from Oklahoma [Mr. MONRONEY], and the Senator from Maine [Mr. MUSKIE] are absent on official business.

I also announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Indiana [Mr. HARTKE], the Senator from Arizona [Mr. HAYDEN], the Senator from New Hampshire [Mr. MCINTYRE], and the Senator from Minnesota [Mr. MONDALE] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], the Senator from Maryland [Mr. BREWSTER], the Senator from Alaska [Mr. GRUENING], the Senator from Missouri [Mr. LONG], and the Senator from Wyoming [Mr. MCGEE] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from California [Mr. MURPHY] are absent because of illness.

The Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK] are absent on official business.

The Senator from Idaho [Mr. JORDAN] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

The Senator from Hawaii [Mr. FONG] is detained on official business.

On this vote, the Senator from Utah [Mr. BENNETT] is paired with the Senator from Colorado [Mr. DOMINICK]. If present and voting, the Senator from Utah would vote "yea" and the Senator from Colorado would vote "nay."

On this vote, the Senator from Idaho [Mr. JORDAN] is paired with the Senator from Hawaii [Mr. FONG]. If present and voting, the Senator from Idaho would vote "yea" and the Senator from Hawaii would vote "nay."

On this vote, the Senator from Wyoming [Mr. SIMPSON] is paired with the Senator from California [Mr. MURPHY]. If present and voting, the Senator from Wyoming would vote "yea" and the Senator from California would vote "nay."

The result was announced—yeas 23, nays 55, as follows:

[No. 230 Leg.]

YEAS—23

Byrd, Va.	Hickenlooper	Russell, S.C.
Cotton	Holland	Russell, Ga.
Curtis	Hruska	Smathers
Dirksen	Jordan, N.C.	Stennis
Eastland	Lausche	Talmadge
Ellender	Long, La.	Thurmond
Ervin	McClellan	Tower
Fannin	Robertson	

NAYS—55

Aiken	Inouye	Pearson
Anderson	Jackson	Pell
Bayh	Javits	Prouty
Bible	Kennedy, Mass.	Proxmire
Boggs	Kennedy, N.Y.	Randolph
Burdick	Kuchel	Ribicoff
Byrd, W. Va.	Magnuson	Saltonstall
Cannon	Mansfield	Scott
Carlson	McCarthy	Smith
Case	McGovern	Sparkman
Clark	Miller	Symington
Cooper	Montoya	Tydings
Dodd	Morse	Williams, N.J.
Douglas	Morton	Williams, Del.
Fulbright	Moss	Yarborough
Gore	Mundt	Young, N. Dak.
Griffin	Nelson	Young, Ohio
Hart	Neuberger	
Hill	Pastore	

NOT VOTING—22

Allott	Gruening	Metcalfe
Bartlett	Harris	Mondale
Bass	Hartke	Monroney
Bennett	Hayden	Murphy
Brewster	Jordan, Idaho	Muskie
Church	Long, Mo.	Simpson
Dominick	McGee	
Fong	McIntyre	

So Mr. THURMOND's amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. YARBOROUGH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. LAUSCHE. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. LAUSCHE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

Beginning with line 17 on page 63, strike out through line 6 on page 67 and insert in lieu thereof the following:

"Sec. 501. The Secretary of Labor is hereby instructed to initiate a study with respect to wage payments by sheltered workshops to handicapped clients, and methods of improving the work productivity of such clients in order to increase their earned income. Such study shall be conducted in cooperation with the Department of Health, Education, and Welfare, and representatives of sheltered workshops. The Secretary is further instructed to report to the Congress within eighteen months following the date of enactment of this Act the findings of such study with appropriate recommendations."

Mr. LAUSCHE. Mr. President, I yield 2 minutes to the distinguished senior Senator from Virginia.

Mr. ROBERTSON. Mr. President, I ask the Senator from Texas whether it is his plan to finish the bill tonight?

Mr. YARBOROUGH. It is the instruction of the majority leader, with agreement from the minority leader, that if we do not finish the bill tonight, the Senate will continue to consider the bill tomorrow. If we do finish the bill tonight, the Senate will come back at 12 noon Monday next.

I have conferred with the Senator from New York [Mr. JAVITS], the ranking minority member of the committee. This is not strictly a party matter. The Senator from New York and I have discussed this matter and we are of the opinion that we can finish the bill tonight.

Mr. ROBERTSON. Mr. President, is it not a fact that we could have disposed of the last amendment by means of a division in 2 minutes and it took a half-hour because Senators were not on the floor?

Mr. YARBOROUGH. The Senator is correct. The Senators were not on the floor at the time.

Mr. LAUSCHE. Mr. President, I can explain my proposal very quickly. The pending bill contains a provision to bring nonprofit industries within the coverage of the bill. The pending bill will bring under the coverage of the bill industries such as the Goodwill Industries, the Association to Aid the Crippled, the Association to Aid the Blind.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. LAUSCHE. Mr. President, I have no special interest in the amendment from the standpoint of the State of Ohio.

I knew nothing about the matter until this afternoon, when a letter prepared by the National Association of Sheltered Workers & Homebound Programs was submitted to me.

This letter requested that an amendment be offered to strike from the bill those provisions which would bring within its coverage sheltered workers in homebound programs.

My amendment provides that the crippled, the blind, and the mentally defective who are working for sheltered worker associations in homebound activities be removed from the coverage of the bill until a study is made. This study would be completed in 18 months.

The letter that was submitted to me stated:

The Advisory Committee on Sheltered Workers, appointed by the Secretary of Labor, has not recommended this approach to the problems of wages in sheltered and homebound shops.

The Secretary of Labor appointed a commission to make a study. That commission has not made recommendations.

What has been done in the bill? The bill would only bring the blind and crippled and mentally deficient partially within the coverage of the bill. The bill would not make all of the provisions effective.

The association begs that we do not act upon this provision, but rather that

we direct the Secretary of Labor to make a study and report in 18 months.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. LAUSCHE. I yield.

Mr. PASTORE. Mr. President, is the association nonprofit?

Mr. LAUSCHE. The Senator is correct. They are all nonprofit.

Mr. PASTORE. In other words, they have no ax to grind.

Mr. LAUSCHE. The Senator is correct. However, the Secretary of Labor says that there is no such thing as a nonprofit association any more. They have no ax to grind, and neither have I.

Mr. PASTORE. Mr. President, I do not know why a worthwhile amendment like this could not be taken to conference where the matter could be ironed out, unless there is some reason that does not substantiate our agreeing to this amendment.

Mr. LAUSCHE. Mr. President, what amazes me—and I say this in good spirits—is that the deep abyss which separated the senior Senator from Oregon from the Secretary of Labor 3 weeks ago has been completely bridged, and the Secretary of Labor is now directing the senior Senator from Oregon to such an effective degree that, on refusal of the senior Senator from Oregon to comply with my request, he said:

I can do nothing more than what the Secretary of Labor has asked me to do.

Mr. MORSE. Mr. President, may I ask my friend, the Senator from Ohio, if he is in favor of the construction of bridges.

Mr. LAUSCHE. I am, but this amendment should be accepted. This means nothing to me, not a thing.

Every association—the Goodwill Industries, the Association for the Blind, the Association for the Crippled—opposes the provision contained in the bill.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. LAUSCHE. I yield.

Mr. SALTONSTALL. Mr. President, I hope that the manager of the bill is willing to take the amendment of the Senator from Ohio to conference. All the amendment does is to ask the Secretary of Labor to make a study of the situation and to report within 18 months.

My interest in this situation comes from interest in the handicapped. In Massachusetts we have an industry called the Morgan Memorial, which is a nonprofit, charitable industry and which employs handicapped persons. They repair furniture and work in their homes, and so on. There is another organization, called the Merrimack Valley Goodwill Industries, in Lowell, Mass.

It is my understanding that the Secretary of Labor at the present time can say that this industry or that industry is exempt from this act, by giving them a certificate.

What the committee's report does is to provide that the Secretary of Labor has to certify every individual in these sheltered industries, and that is an impractical situation.

I disagree with what the Senator from Ohio said in one statement. If the com-

mittee report were true, it is my understanding that the full minimum wage would be in force by 1969.

Mr. LAUSCHE. There are 3 stages in which it rises—stage 1, stage 2, and stage 3.

Mr. SALTONSTALL. I hope that the committee will be willing to take this amendment to conference, and however the conference report comes out will be agreeable to me.

The nonprofit, charitable industries are trying to help these handicapped workers obtain some work. I know that from my own experience with the Morgan Memorial firm in Boston.

Mr. LAUSCHE. Mr. President, I have listened all day, and I beg that I be listened to.

The PRESIDING OFFICER. The Senate will be in order.

Mr. LAUSCHE. On page 1331 of book 2 of the testimony, "Handicapped Industry Exemptions," the Goodwill Industries of Wisconsin, Inc., asks that it not be included in the bill. The National Association of Sheltered Workshops and Homebound Programs, Inc., asks that it not be included. The National Society for Crippled Children and Adults asks that it not be included.

There is a statement of the Jewish Occupational Council. Senator JAVITS has informed me that they have sort of leaned a little toward what is in the bill now. The Goodwill Industries of America, Inc., is against it. There is a statement by John F. Nagle, chief of the Washington office, National Federation of the Blind.

This committee, if it wants to give dignity to the bill that we are considering, should, in good conscience, give consideration to these eleemosynary institutions which have no ax to grind, except to serve the handicapped and the poor and the other people who have other deficiencies.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. LAUSCHE. I yield.

Mr. ERVIN. I should like to ask the Senator from Ohio whether these Goodwill Industries are not organizations that are formed by the charitable-minded people of a community to give employment to handicapped people whom nobody else will employ.

Mr. LAUSCHE. That has been my understanding. As mayor of Cleveland and as Governor of Ohio, I participated in their functions, begging the people to give these organizations help because they were helping the handicapped. But the Secretary of Labor says that we have no such thing as an eleemosynary or nonprofit association.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. LAUSCHE. I yield.

Mr. SALTONSTALL. I hope, and I repeat, that the committee will take this matter to conference, for this reason: The Secretary of Labor now has the authority to issue the certificates to protect the handicapped workers in these industries, and all this amendment does is to give him an opportunity to study the matter, to see whether they should go

further and be included in the minimum wage. That is my understanding.

Mr. LAUSCHE. I am not going to argue the matter any more. I suppose what I have said will fall upon deaf ears, and that those who dominate will rule and carry into effect their objectives, without regard to how those objectives may conflict with what is decent and right.

I yield the floor.

Mr. JORDAN of North Carolina. Mr. President, I ask for 1 minute.

Mr. JAVITS. I yield 1 minute to the Senator, on the bill.

Mr. JORDAN of North Carolina. I hope that this amendment which Senator LAUSCHE has offered will be accepted, because I know a great deal about several of these handicapped groups which are doing work. I know that the Goodwill Industries has one plant in which they rework mattresses and make mattresses and then sell them. I know of a broom factory which the blind operate entirely, and the Lions Club sells the brooms.

Those people, being blind, cannot make as many brooms as can people who can see. I think we would be doing this group of handicapped people a great injustice if we were to put them on the same wage scale as everyone else.

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

Mr. President, I, too, have been worried about this matter. I am sympathetic to the views of Senator LAUSCHE.

The Senator said something, I think without meaning to, about certain organizations which I would know about. They, too, are very worried about any such provision. They do not lean in the direction of the bill. If anything, they lean away from it.

Mr. LAUSCHE. I am glad the Senator said that. I give the benefit of the doubt. I think they have changed.

Mr. JAVITS. May I say to the Senator that there is a plan under this measure by which something can be done which will be constructive and which will provide plenty of opportunity to do exactly what the Senator has in mind.

Section 504, which I sponsored in committee, directs a study exactly as Senator LAUSCHE wishes. However, upon Senator MORSE's motion, we imposed a graduated scale of minimum wages upon those handicapped workers whose work is productive.

The Senator will notice that in other parts of the bill, where work is inconsequential or where it is simply for the purpose of therapy, such work does not come under the minimum wage provisions. So that we are actually dealing with productive labor, and not with work for therapy or work which is inconsequential.

If we provided that up to the end of 1967, where there is actual productive labor, a certificate should provide for at least 50 percent of the minimum wage—not more—then everything else could be left open; because, according to the bill itself, we would get a study on July 15, 1967.

Therefore, if Senator LAUSCHE would be willing, as a way of accommodating the point of view of the senior Senator

from Oregon [Mr. MORSE] and his own, if we would strike out on page 64, from the word "beginning" on line 19, up to and including the semicolon after the word "act" on line 23, it would result in doing substantially what he wishes. In other words, certification could be at a figure of 50 percent of the minimum wage which is provided in this bill.

Mr. LAUSCHE. Until when?

Mr. JAVITS. Until the end of 1967.

Mr. LAUSCHE. And then what?

Mr. JAVITS. Then it would expire. Even this provision would expire. We would get the study in the middle of next year, and then we could or could not, as a Congress, decide whether we wanted to do anything further about the matter.

Mr. SALTONSTALL. There is nothing in the House bill on this subject.

Mr. JAVITS. The Senator is correct.

Mr. SALTONSTALL. So that if Senator LAUSCHE accepts the amendment of the Senator from New York—I hope he will—after further consideration in conference, it could be stricken out.

Mr. JAVITS. The Senator is correct.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MORSE. I shall only take a minute now, although I shall take more time later if it becomes necessary.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MORSE. This is not my language. It conforms with the desires of the Wage and Hour Division. The provision deals with a great problem in regard to certain handicapped workers. We have no right to continue in these sheltered workshops what has been found to be frequently an exploitation of the handicapped, where they are getting 5, 10, 15, and 20 cents an hour and have a production producing well over the equivalent of \$1 an hour.

That is what the Department of Labor is up against. We are not doing anything in this language that the Secretary of Labor does not now have the administrative authority to do. They say it should be in the law, though the Wage and Hour Division is currently putting this system into effect.

I suggested to the Senator from Ohio a few minutes ago—he has it under consideration after consultation with the Senator from New York—the very suggestion that the Senator just made to the Senator from New York.

I wish to direct the attention of the Senator to the bill.

Mr. LAUSCHE. Why waste time?

Mr. MORSE. Because the Senator raised this subject and I do not intend to have the RECORD stand as it is now.

Mr. LAUSCHE. Then, we will continue the argument.

Mr. MORSE. I do not intend to have the Senator determine my explanation. I would be pleased if the Senator would listen.

Mr. LAUSCHE. I heard what the Senator from New York [Mr. JAVITS] submitted. I am ready to accept it.

Mr. MORSE. I would like to have the Senator look at the bottom of page 66, section 504:

SEC. 504. The Secretary of Labor is hereby instructed to commence immediately a complete study of wage payments to handicapped clients of sheltered workshops and of the feasibility of raising existing wage standards in such workshops. The Secretary is further instructed to report to the Congress by July 1, 1967, the findings of such study with appropriate recommendations.

That is the important date. We are ordering the very type study that both the Senator and I want. We have it in the bill. We are proposing that all we do is provide for the 50-percent minimum payment where there is productivity, stopping on line 19 after the word "Act" and strike beginning January 1, 1968, down through line 23.

It accomplishes what the Senator has in mind, and what the Senator from New York [Mr. JAVITS], the Senator from Oregon [Mr. MORSE], and the Senator from Rhode Island [Mr. PELL], have in mind. The Senator from Rhode Island [Mr. PELL] was involved in this matter in committee. We worked this matter out together.

I shall not take further time now. The Department of Labor urged the support of the language I was offering.

The Department of Labor says that adoption of the Morse amendment would be consistent with their purposes. That is where this came from. It did not come from my head. This is what they want and presents their views. It will get into conference and that is what is important.

I offer that as a modification of the Senator's amendment, for his acceptance.

I also ask unanimous consent to have inserted in the RECORD a letter to Senator JAVITS from the Administrator of the Wage and Hour Division, Clarence Lundquist, and two series of questions and answers on sheltered workshops which I have prepared.

There being no objection, the letter and fact sheet are ordered to be printed in the RECORD, as follows:

HON. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

Attention: Mr. Frank Cummings.

DEAR SENATOR JAVITS: The following statement is submitted in response to your request for information on the probable effects of adoption of the Morse Amendment, section 502 of H.R. 13712 as amended by the subcommittee on Labor.

The major provision of the amendment would establish the basic minimum rates to be set by special certificates authorizing the payment to handicapped workers employed in sheltered workshops of wages less than the otherwise applicable minimum rates. The basic special minimum rate would be \$0.62½ beginning January 1, 1967, and the rate would be increased as follows: February 1, 1967—\$0.70; January 1, 1968—\$1.05; February 1, 1968—\$1.20; January 1, 1969—\$1.60.

The amendment provides for needed flexibility by allowing the setting of lower rates for three categories of employees: (a) those engaged in training or evaluation programs where their work is incidental to such programs; (b) those who, because of exceptional circumstances, are unable to engage in competitive employment; and (c) those employed in work activity centers planned and designed exclusively for workers whose physical or mental impairment is so severe as to make their productive capacity inconsequential.

The objectives of the proposed amendments are consistent with the Divisions' objectives

in administering the present section 14 of the Fair Labor Standards Act. Our approach is illustrated by the policy recently enunciated of requiring the workshops which are associated with the National Industries for the Blind to increase basic rates to not less than three-fourths of the statutory minimum by June 30, 1968.

We had expected to extend the underlying policy to other classes of workshops looking to the maximum acceleration of basic minimum wage rates applicable to most employees of sheltered workshops consistent with the standards established by the act. Also, we had expected to set lower rates only in situations where lower rates were clearly required to prevent curtailment of employment opportunities. Thus adoption of the Morse Amendment would be consistent with our objectives. The establishment of statutory standards would make more certain the attainment of those objectives.

Sincerely yours,

Administrator.

[From the office of Senator WAYNE MORSE,
Democrat of Oregon, Aug. 25, 1966]

QUESTIONS AND ANSWERS ON SHELTERED WORKSHOP AMENDMENT IN H.R. 13712

1. Does the amendment put all handicapped workers in exempted workshops under the minimum wage law?

No. It brings under coverage those engaged in productive work, requiring that they receive 50% of the minimum the first year, 75% the second year, and 100% the third year.

For persons receiving training or evaluation of their skills, or for the individual so impaired as to be unable to engage in competitive employment, the Secretary of Labor shall prescribe the wage, commensurate with the worker's productivity. This is how it is done under existing law.

Still a third category is established by the bill, providing for "work activity centers". These are centers designed and planned for people whose physical or mental impairment is so severe as to make their productive capacity inconsequential. People participating in these centers are considered to be there for therapy and for the stimulation of activity, rather than for productive work. These centers shall compensate the handicapped according to regulations from the Department of Labor, as at present.

2. Won't sheltered workshops tend to keep the best workers and not make room for others by sending people out into private employment?

To an unknown extent they do now, for they have the same incentive under the present system. If a shop pays a worker 25 cents an hour for \$1 an hour worth of work, the shop may try to retain that worker now.

3. Workshops will be forced to close if they cannot meet this payroll for workers.

Who decides what share of a workshop budget goes to salaries of supervisors, professional staff, truck drivers, and secretaries, who are either salaried or covered now by the minimum wage law—and how much shall be paid to the handicapped, who are not covered? Essentially, the management makes this decision and then applies to the Secretary of Labor for a certificate of exemption only for the handicapped. It is difficult to see why only the handicapped should receive substandard wages, especially when the federal government is now subsidizing these shops and centers.

4. Won't this provision set back the progress anticipated under the Vocational Rehabilitation Act of 1965?

On the contrary, it is in keeping with it. In 1965, Congress provided in the Act matching funds for one-third to two-thirds of the cost of construction for new workshops, and the remodeling, alteration, expansion, and

equipping of existing ones. It calls for furnishing 70% of the salaries of staff initially hired, ranging down to 30% of salaries the fourth year of operation; it also provides stipends up to \$25 a week, plus \$10 per dependent, for the handicapped people referred to such a workshop by the state vocational rehabilitation service for training. The Act requires, for example, that the Davis-Bacon prevailing wage be applied to construction workers who build or remodel the buildings.

Workshops for the handicapped are no longer a simple charitable operation, staffed by local volunteers. The non-handicapped people in them are paid normal wages or salaries. Most of the handicapped in these centers are there through referral by the state agency, which pays for the cost of "diagnostic and related services (including transportation) incidental to the determination of eligibility for and the nature and scope of services to be provided; training, guidance, and placement services for handicapped individuals".

More recently, the Manpower Development and Training program of the Department of Labor has begun contracting with these shops to train mentally and physically handicapped people.

The "in-training" stipend of \$25 a week under the Vocational Rehabilitation Act would pay half of the minimum wage, although under the bill the Secretary of Labor would fix that compensation, as he does now.

5. Workshops will have to cut back on professional staff and services if more of their income has to go to pay workers.

They already pay non-handicapped workers the minimum. They pay salaried people whatever it takes to get them. As indicated, both the Vocational Rehabilitation and Manpower Development and Training programs provide payment to the workshop for the guidance, training and evaluation of persons they refer. Only the worker has been left out, except for the provision for a stipend to be paid out of federal funds.

Yet the living costs of a physically handicapped person are usually much more than for his non-handicapped fellow workers. The same is true for mentally handicapped. Many of these are unable to work at all for wages to support themselves. But those who do, should receive the same minimum wage for essential living costs as non-handicapped people.

6. These workshops are non-profit, and should remain exempt.

"Non-profit" is no longer considered by Congress a justification in itself for exemption. This bill also extends coverage to non-profit hospitals and nursing homes. Payment of a minimum wage becomes a part of their cost of operation.

Moreover, the extent of federal subsidy to the workshops is increasing, and is intended to increase much more in the future.

7. Everything in this provision can be done under existing law.

True. The Secretary of Labor is in the process of putting this system into effect, and will probably move ahead whether Congress enacts it into law or not. But it should be done by law, and that is why the Wage and Hour Division supports the provision.

Moreover, it is hardly a logical objection to oppose this section going into the law on the ground that it can and will be done by administrative action. Five years ago, the Senate Labor Committee expressed concern at the poor conditions in these workshops in its report on Fair Labor Standards Amendment of 1961. It said then:

"Individual workshops are granted a certificate by the Secretary of Labor specifying a minimum for their operations. The certificate minimums are often set at extremely low levels, frequently as little as 50, 25, and

even 10 cents an hour. The workshop managers then decide themselves, on the basis of broad criteria developed by the Secretary, what wage should be paid each handicapped worker between the certificate minimum and the statutory minimum.

"This procedure for subminimum rates in workshops, while commendably flexible, also obviously permits ready abuse at the expense of handicapped workers, particularly in the absence of a vigorous investigation and enforcement program.

"The number of such workshops and workers in them has increased substantially in recent years, virtually doubling in the last half-dozen years. The growth has been accompanied by an increase in complaints that wages paid under the Secretary's regulations may often be inadequate * * *.

"We trust that adoption and observance of more satisfactory standards can be accomplished through administrative machinery now functioning. If not, the committee would hope to explore and develop formal statutory standards to assure adequate minimum wage protection for all handicapped persons."

That was five years ago. At the beginning of 1965, the Department of Labor had issued 167 certificates calling for payment of less than 25 cents an hour. Eight of these permitted as little as 5 cents an hour. One hundred forty-nine certificates called for payments between 25 cents and 49 cents; two hundred and twenty-five for payment between 50 cents and 75 cents; one hundred forty-nine for 75 cents to 99 cents; and thirty certificates for \$1 an hour or more. A survey of workshops in 1961 found that eleven out of seventy-nine surveyed were paying less than the wage set in their certificates.

Mr. LAUSCHE. Mr. President, I am edified and pleased tremendously that I succeeded in getting the Senator from Oregon [Mr. MORSE] to yield for once in the least degree. He has a richness of obstinacy that makes it impossible to yield.

But, Mr. President, the Bureau of Wages and Hours, like all other bureaus will never rest content until all are encompassed within the domain of those men who shall rule.

That argument is not sound to me. This will go to conference. I am prepared to accept the proposal that has been made on the subject by the senior Senator from New York [Mr. JAVITS] and the Senator from Oregon [Mr. MORSE].

I wish to repeat that it means nothing to me, nothing at all. I do not know why I got into the argument. [Laughter.]

Mr. YARBOROUGH. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Ohio [Mr. LAUSCHE], as modified.

Mr. YARBOROUGH. Mr. President, I understand there is a modification for clarification.

I understand the modification to be that if the amendment is adopted there will be deleted from the bill the language beginning with the word "beginning" on line 19, page 64, through the word "Act" on line 23, page 64. The following words would be deleted: "beginning January 1, 1968, such wages shall not be less than 75 per centum of such minimum wage; and beginning January 1, 1969, such

wages shall not be less than the minimum wage in effect under section 6 of this Act;".

The PRESIDING OFFICER. The Senator is correct.

The question is on the amendment (putting the question).

The amendment was agreed to.

AMENDMENT NO. 764

Mr. JAVITS. Mr. President, I call up my amendment No. 764 and ask that it be reported on behalf of myself, the Senator from Florida [Mr. SMATHERS], the Senator from California [Mr. MURPHY], the Senator from Arizona [Mr. FANNIN], the Senator from Vermont [Mr. PROUTY], and the Senator from Michigan [Mr. GRIFFIN].

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. The Senator from New York [Mr. JAVITS] proposes an amendment for himself and others, on page 67, between lines 6 and 7, insert a new title VI entitled "Prevention of Discrimination Because of Age."

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 67, between lines 6 and 7, insert the following:

"TITLE VI—PREVENTION OF DISCRIMINATION BECAUSE OF AGE

"SEC. 601. Section 6(d)(4) of such Act is amended by inserting after the word 'subsection' the words 'or subsection (f)'.

"SEC. 602. Section 6 of such Act is amended by adding at the end thereof a new subsection as follows:

"(f) (1) No employer having fifty or more employees subject to any of the provisions of this section shall, within any establishment in which such employees are employed—

"(A) refuse to hire, discharge, or otherwise discriminate against any person 45 years of age or older with respect to the terms, conditions, or privileges of such person's lawful employment, because of such person's age, when such an age distinction is not a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; or

"(B) utilize in the hiring or recruitment of individuals for employment otherwise lawful any employment agency, placement service, training school or center, labor organization, or any other source which so discriminates against persons 45 years of age or older because of their age.

"(2) No labor organization having fifty or more members subject to any of the provisions of this section shall so discriminate against any person 45 years of age or older or limit, segregate, or classify its membership in any way which would deprive or tend to deprive such person of otherwise lawful employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as such an applicant for employment, or would affect adversely his wages, hours, or employment conditions, because of such person's age.

"(3) No employer subject to paragraph (1) or labor organization subject to paragraph (2) shall discharge, expel, or otherwise

discriminate against any person, because he has opposed any practice prohibited by either such paragraph or has filed a charge, testified, participated, or assisted in any proceeding under this Act arising out of any such practice.

"(4) For purposes of administration and enforcement, any amounts owing to any employee which have been withheld from such employee in violation of this subsection shall be deemed to be unpaid minimum wages or unpaid overtime compensation under this Act.

"(5) Before instituting any action under section 16 or section 17 with respect to any practice by any employer or labor organization in violation of this subsection, the Secretary shall endeavor to eliminate such practice by informal methods of conference, conciliation, and persuasion.

"(6) Upon the request of any employer, whose employees or some of them refuse or threaten to refuse to cooperate in effectuating the provisions of this subsection, the Secretary is authorized to assist in such effectuation by conciliation or other remedial action.

"(7) The Secretary is authorized to make such technical studies as are appropriate to effectuate the purposes and policies of this subsection and to make the results of such studies available to interested governmental and nongovernmental agencies.

"(8) The Secretary is authorized to create such local, State, or regional advisory and conciliation councils as in his judgment will aid in effectuating the purpose of this Act, and to empower them to study the problem or specific instances of discrimination in employment because of age and to foster through community effort or otherwise means to fully utilize the skills of workers over forty-five, and make recommendations to the Secretary for the development of policies and procedures in general and in specific instances. Such advisory and conciliation councils shall be composed of representative citizens, residents of the area for which they are appointed, serving without pay, but with reimbursement for actual and necessary traveling expenses; and the Secretary may make provision for technical and clerical assistance to such councils and for the expenses of such assistance.

"(9) Notwithstanding the provisions of paragraph (1) of section 13(a), this subsection shall not be inapplicable to employees described in such paragraph."

On page 67, line 7, strike out "TITLE VI" and substitute "TITLE VII".

On page 67, line 10, strike out "SEC. 601" and substitute "SEC. 701".

On page 67, line 20, strike out "SEC. 602" and substitute "SEC. 702".

On page 68, line 4, strike out "SEC. 603" and substitute "SEC. 703".

On page 68, line 12, strike out "TITLE VII" and substitute "TITLE VIII".

On page 68, line 13, strike out "SEC. 701" and substitute "SEC. 801".

On page 69, line 4, strike out "SEC. 702" and substitute "SEC. 802".

Mr. JAVITS. Mr. President, I yield 3 minutes to the Senator from Delaware [Mr. WILLIAMS].

Mr. WILLIAMS of Delaware. Mr. President, I thank the Senator.

Mr. President, I wish to direct a question to the manager of the bill for a clarification of the status of certain poultry growers in his area and in mine.

I shall read first my understanding of the language of the bill and I would appreciate the comments of the Senator.

It is my understanding that the agricultural coverage provisions are not intended to affect in any way the traditional tests that have heretofore been applied under the act in determining

whether an independent contractor or an employee relationship exists.

I am particularly concerned about a situation where a feed company enters into an arrangement with local farmers to take over management of laying flocks or broilers provided by the company, care for the hatched chicks and then return them to the company as full-grown chickens or pullets at so much per chicken. Under these arrangements the farmer most often provides the poultry house the utilities and equipment, although in some cases the company provides such facilities and other services.

He exercises his own initiative and judgment in the day-to-day care of the poultry. He has opportunity for profit, if he has very few casualties and the chickens are plump and healthy, or less—if the reverse occurs.

In the situation I have described, I think it would be most unfortunate if we were to conclude that these farmers are employees of the company rather than being classed as independent contractors.

I repeat my understanding so that there is no possibility of any question as to their status under this bill.

They are not covered now and will not be covered by this bill.

Mr. YARBOROUGH. Mr. President, the Senator's understanding is correct. The Senator is most patient. He has been waiting for 2 or 3 hours to get this clarification.

With regard to the poultry industry and the broiler production in particular, the committee carefully considered this matter and I refer the Senator to the extensive discussion in the committee report of an independent contractor versus an employer-employee relationship and the various tests used to determine which relationship exists.

I would like to emphasize that this does not mean that the feed company is not engaged in agriculture or that employees of the company would not be covered if the company met the 500-man-day test.

We are dealing with the situation the Senator outlined. This does not mean that employees of the poultry grower, other than members of his immediate family, would not be covered as employees of the grower, if the grower meets the coverage provisions of the law.

Mr. WILLIAMS of Delaware. I thank the Senator for the clarification. Much of this work is done by families. This does clarify the point.

Mr. YARBOROUGH. Mr. President, that concludes the colloquy but I think one or two Senators are interested in this.

They build the factory to get the jobs in there. That is the factor on the broiler industry.

Mr. WILLIAMS of Delaware. That is true in many instances, although there are a few instances where it would not be true. That could be a company-owned facility.

Mr. YARBOROUGH. The Senator is correct.

Mr. JAVITS. Mr. President, I yield 1 minute to the Senator from Vermont.

Mr. PROUTY. Mr. President, as a co-sponsor of the pending amendment, I

hope very much that it will be adopted by the Senate.

The plight of our older citizens has been of grave concern to me for a long time. My colleagues will recall that last spring I was successful in offering an amendment providing social security benefits for elderly persons who had not been able to qualify for them before because they had not worked the required number of quarters in covered employment.

My social security amendment was strongly opposed by the administration, and the administration was able to eliminate many of its desirable features in the joint conference with the House.

Now, however, I understand that the President has seen the light, and has promised to unveil bigger and better plans for social security coverage of our senior citizens in the next Congress.

Mr. President, I sincerely trust that the administration and the Senate will not repeat their mistake by voting down the pending amendment. I was very disappointed in the action of my committee's majority members when they voted to reject this proposal. Once again, it is the minority party which has come forward with a constructive suggestion to remedy discrimination against a large segment of our population which has been ignored in the war on poverty and overlooked and forgotten under the welfare philosophies of the Great Society.

This amendment does not give anyone "something for nothing." It adds no one to the relief rolls or other welfare programs which are supported and paid for by our tax dollars.

No, Mr. President, this amendment gives nothing away. Rather, it will give protection to millions of older Americans who really want to work—who have many, many creative and productive years left—who want to work and pull their share of the load in our national economy.

Mr. President, 20 States and Puerto Rico already have laws on the books prohibiting discrimination in employment because of age. I am informed that these laws have been extremely successful in broadening job opportunities for older workers.

It is high time that the Federal Government caught up to the 20 States which have enacted this type of progressive legislation, by passing a Federal law against employment discrimination because of age. The Senate has the opportunity to take the first step in this direction this afternoon by adopting this amendment.

Mr. President, I shall not repeat the detailed reasons why this amendment is necessary. These are clearly spelled out in the additional views filed by Senators JAVITS, MURPHY, GRIFFIN, and myself, and are available to each of my colleagues in the committee report which he has on his desk.

Mr. President, we can no longer afford to disregard and neglect the ever-increasing numbers of older workers who still have so much to contribute to our ever-expanding economy. If this amendment is defeated, I predict that it will emerge—along with my social security proposals for the elderly and other con-

structive legislation originally offered by members of the minority party—as an administration proposal in a future session of Congress. But the people affected by this amendment should not be denied employment opportunities for another year—should not be made to suffer from job discrimination because of age. They are entitled to this protection immediately, and I urge the Senate to adopt this amendment.

Mr. JAVITS. Mr. President, let me briefly describe the amendment to the Senate.

This is an effort to do something about discrimination in employment because of age. It would vest in the Wage and Hour Division of the Labor Department, in accordance with its customary practices, authority to deal with age discrimination in employment, confined, however, to workers 45 years of age or older, and it has the basic bona fide occupational qualification provision which takes care of any problems which could arise in connection with it.

On page 2 of the amendment, lines 7 through 10, the provision exempts an age distinction from any part of the prohibition with respect to discrimination when such an age distinction is “a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.”

Mr. President, these are words of art to take care of any valid employment problem because of age. We are not trying to require the hiring of 65-year-old ladies—distinguished as they may be—to be airline stewardesses, or to fit men and women who are square pegs into round holes, or anything of that kind.

But the basic problem is very real. A major and scarcely touched area of difficulty is the problem of the unemployed older worker, who faces grave difficulties in finding a new job, in spite of considerable skill and maturity. Here, I believe there is an urgent need, and have repeatedly urged in the Congress speedy and forceful action to remove the two major barriers which the unemployed worker in his middle and older years must overcome:

First. Arbitrary and unjust age limits on hiring, imposed by employers through prejudice and misunderstanding; and

Second. Insufficient skills or education to qualify for entry into the increasingly technological industry of today.

Momentum for positive action on discrimination because of age has been steadily growing. Executive Order 11141 issued on February 12, 1964, has made it public policy to ban discrimination because of age in employment under Federal contract, except upon the basis of a bona fide employment qualification, retirement plan, or statutory requirement. Twenty States and Puerto Rico have adopted laws prohibiting this kind of discrimination. Over half of these laws have been passed since 1960; all but three since 1955. Under these measures, the States have had broad success in reducing age discrimination and expanding job opportunities for older workers. The major hindrance to further progress has been limitation on staff and funds. My own State of New York has

had such a law since 1958, and substantial progress has already been made.

Despite the existence of State laws and last year's Executive order, much more needs to be done. The steps already taken must be extended to cover the entire Nation, so that age discrimination can be fought universally and effectively. In June 1965 the Congress received a report on age discrimination in employment from the Secretary of Labor as required by section 715 of the Civil Rights Act of 1964, a provision which I sought in the Senate.

The Secretary's report concluded as follows:

There is persistent and widespread use of age limits in hiring that in a great many cases can be attributed only to arbitrary discrimination against older workers on the basis of age and regardless of ability. The use of these age limits continues despite years of effort to reduce this type of discrimination through studies, information and general education undertaken by the Federal Government and many States, as well as by nonprofit and employer and labor organizations.

The possibility of new non-statutory means of dealing with such arbitrary discrimination has been explored. That area is barren.

State experience with statutes prohibiting discrimination in employment on the basis of age indicates that such practice can be reduced by a well-administrated and well-enforced statute, coupled with an educational program. It is clear from this experience that an educational program to promote hiring on the basis of individual merit is far more effective when provided for by statute.

The most effective way to accomplish this is to make it an unlawful employment practice under the Fair Labor Standards Act to discriminate unjustly on account of age. My amendment would give the Administrator of the Wages and Hour Division of the Labor Department authority to enforce prohibitions against arbitrary age discrimination in employment. It would integrate into the Fair Labor Standards machinery enforcement against age discrimination. The Administrator would be made responsible for investigating complaints of age discrimination in employment, and for negotiating or compelling redress where complaints are well founded. This procedure would fully effectuate Secretary Wirtz' recommendation that:

The elimination of arbitrary age limits on employment will proceed much more rapidly if the Federal government declares, clearly and unequivocally, and implements, so far as is practical, a national policy with respect to hiring on the basis of ability rather than age.

The Secretary's report set forth the scope and complexity of the problem, concluded that it can be solved, and cited the success of State laws against age discrimination in employment. With regard to skills and education, the report called for increased efforts, under the Manpower Development and Training Act and other existing training programs, to upgrade, retrain, and counsel older workers to enable them to adjust successfully to the organization and skills requirements of modern industry.

Expanded training and counseling, however, will avail little unless the other more greivous barrier to employ-

ment for older workers—unjust age discrimination on the part of employers—is stricken down. The imposition of arbitrary age limits on hiring, by which many companies refuse to hire any worker above a certain age—regardless of his often considerable abilities or qualifications—is the most serious, the most wasteful, and the least justifiable aspect of the problem, and is a practice regrettably widespread in this country. In the words of Secretary Wirtz' report:

An unmeasured but significant proportion of the age limitations presently in effect are arbitrary in the sense that they have been established without any determination of their actual relevance to job requirements, and are defended on grounds apparently different from there actual explanation.

Although lack of physical capacity is the most frequently cited reason for rigid age limits, many considerations tend to invalidate the idea that any useful purpose is served by such rigid restrictions. They include: The wide variation of age limits for comparable jobs, the general lack of statistical studies in justification of such limits and the fact that many responsible employers hire workers for jobs from which they would have been barred by other employers solely because of age.

In a nation which is more and more oriented toward meeting the needs of the young, we must not neglect the ever-expanding population of older workers who have the capacity to be productive, valuable members of the national economy, but who cannot find a job. They must be given adequate scope for their skills and their experience.

Mr. ERVIN. Mr. President, will the Senator from New York yield at that point?

Mr. JAVITS. I am happy to yield to the Senator from North Carolina.

Mr. ERVIN. Would not the Senator's amendment transfer power to make decisions from the employer to the Federal Government?

Mr. JAVITS. No. I do not agree that my amendment would transfer power to make a decision to the Federal Government. I think the employer would make the decision, but his decision could be challenged.

Mr. ERVIN. His decision could be overruled by the Secretary of Labor, could it not?

Mr. JAVITS. It would be subject to court appeals, and so forth. That is the case in regard to discrimination on grounds of sex. That was discussed today, as was the case of discrimination in regard to equal pay, and discrimination on grounds of color.

Mr. ERVIN. Let me say to the Senator from New York, that the fact that unwise action may have been taken in the past does not justify other unwise action in the present. We have had murder and larceny in the past, but that has not made murder meritorious or larceny legal. So why take rights away from the employer and give them to the Secretary of Labor merely because we may have robbed the employer of other liberties in the past?

Mr. JAVITS. With all due respect to the Senator from North Carolina, I do not see any analogy in trying to preserve

the employment opportunities of older people with such things as murder and larceny.

Mr. HICKENLOOPER. Mr. President, will the Senator from New York yield?

I shall be glad to wait until the Senator has finished.

Mr. JAVITS. I am happy to yield to the Senator from Iowa.

Mr. HICKENLOOPER. I thank the Senator for yielding to me at this time.

I noticed a story in the New York Times today about the policy, especially of the larger corporations which are really growing, which they are adopting that amounts to almost a hard and fast rule, that they will consider the advancement to managerial and executive positions of only younger men, those 28 to 32 years old, perhaps to 35 years old. Thirty-five seems to be almost the cut-off point for advancement as a matter of the policy of these larger corporations.

I should like to ask the Senator from New York, how will this affect that situation?

Mr. JAVITS. We would hope very much that this amendment would escalate the whole concept of opportunities for older people. The reason it does not run below the age of 45 is that the studies of the Secretary of Labor, and other work which we have done on the subject, indicate that the age of 45 and older is where discrimination becomes very real.

Mr. HICKENLOOPER. Part of the burden of the story was that management has come to the conclusion there is a certain controlling influence which attaches as people grow older and that it serves the interest of their customers, their product, and their business better if younger men are in positions of managerial and executive responsibility.

Mr. JAVITS. The Secretary of Labor, in his study, does not accord with that at all. His study shows that employers argue against hiring older workers for many reasons but that their reasons do not hold up when examined closely. For example, they argue that older workers do not have the physical capability or that pension problems, health and insurance problems, and other costs are made more difficult for industry if older workers are hired. This does not, however, stand up to analysis, as the Department's study demonstrates. And it certainly does not answer the sociological problem of the older worker who finds himself very much too early, notwithstanding his skills and experience, on the junk heap. That is what my amendment is seeking to have some influence in redressing.

Mr. HICKENLOOPER. I was trying to find out whether the Senator's amendment would effect something of that kind. I would not expect the Senator to answer me, of course, without having more information at his disposal. I just happened to notice this story in the paper today. I expect the Senator noticed it.

Mr. JAVITS. No, I did not, but I have considered this problem many times. Those stories are not unusual. This is a real problem in all of American business. Twenty States, let me say to the Senator, already have passed statutes of this character, plus Puerto Rico. In New York we have had such a law on the books for 8

years. It has worked quite successfully. It does not promise the millennium, but it does have a tendency to temper the kind of selectivity which the Senator so well describes.

Mr. HICKENLOOPER. I thank the Senator.

Mr. HOLLAND. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I should like first to finish my argument, if I may, and then I shall be happy to yield for questions.

Mr. President, the Senator from Florida [Mr. SMATHERS] has joined in sponsoring the amendment. Generally speaking, he has an amendment of his own which would accomplish the same result as the one which, together with other Senators, I have introduced. He was very gracious. In addition to introducing such bills in 1963 and 1965, the Senator from Florida is chairman of the Special Committee on the Aged. I consider his willingness to join with the rest of us who fought this battle in the committee to be a tremendously important element of strength to those of us who are presenting the amendment to the Senate today.

In that connection, Mr. President, I invite the attention of the Senate to the fact that the Senator from California [Mr. MURPHY] is also a very strong advocate of my amendment. I ask unanimous consent that his remarks, in view of his necessary absence from the Senate, may be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR MURPHY

For some time this great nation has sought to make available to all its citizens equal opportunities for employment. We have attempted to eliminate artificial and discriminatory barriers to employment. Beginning when our forefathers first landed on our shores, we early realized that a man should be judged by his performance, not by his religion, sex, color or national origin.

The gates leading to equal employment have not always been open, at least equally wide, to all American citizens.

As my colleagues know, in 1964 Title VI of the Civil Rights Act outlawed discrimination in employment practices on the basis of race, color, religion, sex and national origin.

One form of employment discrimination was neglected. I am referring to employment discrimination because of an individual's age. I am speaking of job discrimination facing the nation's older worker. This has long been a great concern to me. One of my early acts when I came to the Senate last year was to join Senator JAVITS in cosponsoring S. 1752, which would prohibit job discrimination because of age. Regrettably, no action has been taken on S. 1752. Fortunately we have at hand a vehicle in the form of the minimum wage measure that will permit us to accomplish the purposes of S. 1752. This amendment, offered by Senator JAVITS and others, and which I am cosponsoring, will amend the Fair Labor Standards Act by adding a new title prohibiting discrimination in employment because of age. Enforcement of the prohibition against age discrimination will be by the Wage and Hour Division of the Department of Labor.

To appreciate fully the problems of the older worker, when he becomes unemployed for one reason or another, it might be helpful to examine some of the general characteristics of this group of Americans. In this day and age when such emphasis and importance

are placed on education, the older worker's educational deficiencies are a major obstacle. Among male workers age 45 to 54, nearly one-third of those who are white and almost two-thirds of those non-white groups have not gone beyond the eighth grade. Among the male workers 55 to 64, nearly one-half of the white group and more than three-fourths of the non-white group have not gone beyond the eighth grade.

Many of these workers were forced by economic necessity during the depression to leave school and find means to help sustain their families through those troubled times. Many of the younger members of this age group left school and entered the labor market during World War II when work was plentiful and employers begged for workers.

Then, for whatever the reason, perhaps automation or the closing of a plant, the older worker might have been told that his services were no longer needed. The world, crushing in on him, our older worker now walks the streets seeking new employment. Not only will he be made aware of his educational deficiencies, but frequently he also finds that employers disqualify him because of his age.

Also, we know that the older worker has less mobility than his younger counterparts in the labor market. This results from numerous factors. The older worker probably owns his own home, may have school age children, and has strong ties with the community which are difficult for him to sever. The younger worker, on the other hand, usually finds it easier to move in order to locate another job. Evidence from many studies indicates that unemployed workers who move, have greater economic prospects than those who are reluctant to move. A recent Labor Department study of geographical mobility substantiates these findings. About 72% of the unemployed persons who moved between March 1962 and March 1963 were employed a year later. Only 55% of those who did not leave their communities were able to find new jobs. The older worker's reluctance to move adds to his difficulties in finding new employment.

Statistics clearly show that the older worker once unemployed, is likely to remain without work for a longer period of time. The average duration of unemployment for males in 1964 in the 45 to 64 age group was 20.8 weeks. This compares to an average of 14.5 weeks for all males.

Now, if it were not enough that the doors to employment were closed to the older worker because of lack of education and skills, an older worker often faces an attitude on the part of some employers that prevents him from receiving serious consideration or even an interview in his search for employment. This employer discrimination results to a great extent from employer misconceptions about the performance of older workers and the relative cost to the firm of hiring older rather than younger workers.

In 1963, a study of employer orders received in the local state Employment Service offices in eight major cities in states not having anti-discrimination laws found that 47% of job orders specified upper age limits, 18% specified workers under 35, and 33% set age limits under 45. The 1963 study was updated by the Employment Service in a survey done in the Spring of 1965. The Employment Service interviewed selected employers as to their attitudes and hiring records. Only 8.6% of new workers hired by these employers during 1964 were over 45, which was less than one-third of this group's proportion among the unemployed. Approximately 25% of the employers interviewed had upper age limits for hiring.

Employers gave many reasons why they do not hire older workers. In a 1959 study done in my state of California, the following reasons were given for not hiring older workers: 22.4% of the employers said that older workers cannot maintain production standards; 20.9% said that they cannot meet a

company's physical requirements; 13.2% said older workers were inflexible; 10.1% mentioned pension and insurance costs; 7.1% felt that the older workers were too close to the compulsory retirement age; 5.2% preferred younger people; 3.2% found older workers more difficult to train; 3.1% felt that they were excessively absent; and 2.7% had a policy of promotion from within the firm. While obviously some of the reasons given by the employers are just and reasonable, there certainly does not appear to be a justification for some of the reasons given by employers for upper age limits.

A recent Bureau of Labor Statistics study of health and insurance plans and their effect on the employment of older workers shows that the costs do not vary greatly due to age, since the rates are based on the entire company's average costs. For example, the older worker frequently does not have the small children nor the expense of maternity care, and savings such as this would equal or perhaps outweigh the higher costs of morbidity. Private pension plans have also been an obstacle to the hiring of older workers. In the United States today twenty-five million workers are covered by some form of private retirement plan. Most of these plans require involuntary retirement. The cost of a pension depends on the age of the worker at the time he is hired and, therefore, pension plans are more expensive when a worker is hired at a later age.

Many studies, however, have argued that the pension and insurance costs of hiring older workers are over-estimated. This can be outweighed by careful consideration of the skills and experience that the older worker is bringing to the job. The National Association of Manufacturers has stated: "The more one examines pension and insurance costs, the less valid they become as legitimate barriers to the employment of mature workers. When one considers the many personal assets the mature employee brings to the job, pension and insurance costs certainly lose whatever significance they may appear to have."

There have also been many studies done on the job performance of the older worker and studies done by the Labor Department show that job performance does not decrease significantly with age. A 1961 survey of postal employees showed that workers 40 to 59 years of age produced as much as younger workers in the same type of job. Even at age 60 and over, the average output was only 4% less than the output of workers age 35 to 39. Two surveys of performance done by the Labor Department in 1956 and 1957 indicate that there is a stable average performance level through age 54 with some falling off of the average output of the age 55 to 64 group. The studies also indicated that there was a wide variability of performance within a given age group. These studies showed too that there was no difference in attendance between the age groups.

Perhaps the most useful indication of the value of the older worker is in the evaluation of the employers themselves. Employers consistently praised their older workers. A 1951 study by the National Association of Manufacturers showed that out of 3,107 reporting companies, the great majority found their older workers equal or superior to younger workers.

Percentages of employers holding specified opinions of older workers

Factors	Performance of older workers		
	Superior	Equal	Not equal
Work performance.....	22.4	70.3	7.2
Attendance.....	48.3	49.8	1.9
Safety records.....	32.2	65.2	2.6
Work attitudes.....	48.4	50.8	.8

I would like to read this NAM survey.

A panel of 196 executives was polled in 1959 by the Bureau of National Affairs and the results of this questionnaire further indi-

cate that older workers have definite advantages for employers. I would also like to read this survey.

	Company with less than 1,000 workers		Company with more than 1,000 workers	
	No.	Percent	No.	Percent
Is the older worker less efficient?.....	No.....	70	No.....	75
Is he less regular in attendance?.....	No.....	98	No.....	98
Is he more accident prone?.....	No.....	77	No.....	90
Is he more inclined to grumble?.....	No.....	86	No.....	87
Is he more likely to be late?.....	No.....	100	No.....	100
Is he more difficult to supervise?.....	No.....	90	No.....	81
Is he more understanding of management?.....	Yes.....	86	Yes.....	91
Is he less likely to move to a new job?.....	Yes.....	93	Yes.....	91
Is he more resistant to new ideas and methods?.....	Yes.....	77	Yes.....	73

At the present time laws prohibiting discrimination in private employment on the basis of a person's age are in effect in twenty states and Puerto Rico. In New York State a report on the first two and a half years (July 1, 1958, to December 31, 1960) of their age discrimination law, a total of 277 complaints alleging discrimination on account of age are described. In 31% of these cases, some unlawful practice was found and adjusted. 209 of the cases had been closed by the end of 1960. A spot check was taken at one office before and after the law was enacted. In 1955-1956, 22.7% of the job orders placed with the office carried upper age limits. This number had been greatly reduced by 1958-1959 to .3% of the total. A general evaluation of the experience in New York indicates that prejudice is breaking down and that there has been almost a complete elimination of the age specification in want ads and a great reduction of placing age limits by employers in job orders.

In a survey conducted by the Labor Department in 1963 on the effectiveness of state laws, the response from state agencies indicated that the enactment of age discrimination statutes has been followed by a decrease in discriminatory age specifications in job advertising and in job orders.

In 1964 the Department of Labor conducted a conference of officials who administer the state anti-discrimination laws, and one point made at this conference was the desirability of federal legislation in this field. Secretary Wirtz has reported that in thirty states which have no laws against age discrimination, fully half of all the job openings are closed to applicants over 50 years of age and about one-third of the job openings are closed to applicants over 45 years of age.

So, it is obvious that age discrimination does present a problem in this country. I see no reason why we should not include job discrimination on the basis of age with the present ban on discrimination on the basis of race, color, religion, sex and national origin. I am hopeful that the Labor and Public Welfare Committee will enact this amendment to the minimum wage bill.

I do not feel that this will be a complete panacea for the problems of our older workers. It will, however, be a significant step in the right direction. Nor do I believe, Mr. President, that the federal government alone should involve itself in this problem. The states are moving have moved and should continue to move toward equal employment opportunities. Private groups have done outstanding work in initiating programs to help older workers and to help educate the public at large. In California this has certainly been true. In Pasadena a group called "Jobs After Forty," formed in 1959, has conducted surveys, sponsored workshops, clinics and forums with employers and potential employees and reports great successes in the placement of applicants. "Experience Unlimited" is an organization composed of jobless executives and managerial personnel. They make extensive use

of group discussions and group counseling to aid the older worker in locating employment. "California Associates" is a similar organization for women in the executive or managerial field. "Careers Unlimited" for women is another private and civic organization which tries to place older women in jobs, and volunteers work with applicants on an individual basis often accompanying applicants when they go to see prospective employers.

National organizations, such as the American Medical Association, the National Association of Manufacturers, the American Legion, and the Fraternal Order of Eagles have conducted intensive massive campaigns to promote the hiring of older workers. Federal programs, such as the Older Americans Act, the Vocational Education Act, and the Manpower Development and Training Act have helped the older worker.

The Manpower Development and Training Act has not been giving the attention to the older worker that it should. In 1962-1963, a total of 3,250 workers 45 years old and over completed training courses under the Act. This constituted about 11% of those trained. The older workers comprised about 29% of the unemployed group. The on-the-job training program has not been used adequately. Early this year, the Senate Labor and Public Welfare Subcommittee on Employment and Manpower, of which I am a member, held hearings on the on-the-job training programs, and I was shocked upon hearing the testimony on the amount of paper work required in order to participate in on-the-job training. It is no wonder that the employers have not been participating as much as some of us would hope. In all fairness to the Labor Department, it was announced that they have finally taken steps to lessen the paper work.

The older worker, like all Americans, should be judged on his merit. The older worker should not have the doors to employment closed before he is even given consideration. Enactment of this amendment will be of great significance to our older workers.

Mr. JAVITS. Mr. President, as I say, the Secretary of Labor has fully sustained the validity of this idea. His extended study of the older American worker contains his own conclusion that there is really nothing else that will better help the situation than some form of Federal legislation.

I should like again to read his words:

The elimination of arbitrary age limits on employment will proceed much more rapidly if the Federal Government declares, clearly and unequivocally, and implements, so far as is practical, a national policy with respect to hiring on the basis of ability rather than age.

Mr. President, the main point which the Secretary of Labor has made in advising the chairman as to his attitude on

the amendment has not been that there is any difference with the purpose of the amendment but just about how it could best be carried out. He says, in effect, that he agrees it must be done, but the question in his mind is how to do it.

After developing it in the committee, this in essence was the situation: really the main question raised was whether it should go on this bill, whether enforcement should be placed within the jurisdiction of the Wage and Hour Administrator. I should like to lay that question before the Senate. I do not feel that that is an open and shut case.

I would be the last to say that, but as one examines the other possibilities, this appears to be the best settled office for the administration of it, with a highly professional staff, with an enormous network of personnel throughout the country, who could best pin it down to do that which is due.

Wages and hours, of course, are a nationwide problem. Hundreds of employers are familiar with the Wage and Hour Division and with its established procedures. This is an agency which has received great support. It administers the Fair Labor Standards Act, which this bill amends.

It administers the Equal Pay for Women Act. And it administers the Child Labor Acts.

It does not administer the title VII, 1964 Civil Rights Act provisions on equal employment opportunity based on sex, for that is within the jurisdiction of the Equal Employment Opportunity Commission, which was created by title VII. I respectfully submit that the reason for that was not necessarily legislative soundness, but an attempt to make, as my leader has said, the hide go with the hair. We were, in the eyes of some, imposing a statute dealing with discrimination on grounds of color, faith, and national origin, and so they insisted on our swallowing the whole thing, including sex. I doubt that even they would have chosen that as the best way to administer that type of statute.

So that in the present case, where we have a grey area of legislation, I think what I have proposed is the best type of administration for this type of statute. It is congenial. It does not go into the sociological grounds of discrimination on account of race or color.

I should like to point out, in conclusion, that this amendment will be in conference with the other body. There will be plenty of opportunity—if there are any “bugs” or onerous aspects, for example, that must conform more closely to pension plans—to have it perfected in conference.

I have only the desire to place some Federal cachet upon this policy and enlist a great government department in improving the practices, rather than let them go as they are.

I yield now to the Senator from Florida [Mr. SMATHERS].

Mr. SMATHERS. I thank the Senator from New York. I associate myself with his support of this amendment.

I introduced a bill in 1963 on this subject, and again in 1965, and as an amendment to this bill. I introduced it origi-

nally to the civil rights bill. We were debating the civil rights bill, as we all know, and those who opposed the general overall conception of the bill thought that if Congress was to pass a law which could or would make it illegal to discriminate against persons who sought employment because of their race or color, we should have as another condition of employment the condition that an employer could not discriminate against a person because of his age.

I should like to read what the late beloved Senator McNamara, then Senator from Michigan, said in 1964 in discussing this matter:

Mr. President, I certainly agree with the Senator from Florida that there is great need for legislation dealing with discrimination throughout the United States based on age.

He said he thought there was an appropriate time and place to get this done and said he would be happy to join with the Senator from Florida in sponsoring a separate bill.

He ended his statement with the words:

I would be opposed to the amendment as an amendment to the civil rights bill.

I do not think that we need to go into a great many statistics to know that there is an enormous amount of discrimination in employment because of age. In 1955 we had what we called the “Seven Cities Study,” which brought to light the fact that older workers, particularly those in the 45-and-over age bracket, faced imposing obstacles in employment once they become idle, and that specialized, more intensified services were required to assist them in obtaining employment. The survey highlighted the fact that the greatest single obstacle facing the unemployed older workers was arbitrary age limits set by employers in their hiring practices—for example, sometimes even as low as under 35 for clerical positions, and in many cases under 40. Of the 21,386 job openings filed in April 1956, in employment service offices in these 7 cities, more than one-half specified maximum hiring ages of 55, more than two-fifths specified 45, and one-fifth under 35.

Then in a study published in the committee print of the Committee on Aging entitled “Background Studies Prepared by State Committees for the White House Conference on Aging,” a St. Louis study showed that a job applicant 35 years old would automatically be excluded because of his age from 16.9 percent of the job openings reported by employers for filling to the employment service in St. Louis; that an applicant 40 years of age would be excluded from not only that 16.9 percent but also from an additional 11.6 of all job openings reported; that one 45 years old would be excluded from not only those jobs but also from an additional 9.6 percent, or from a total of 38.1 percent of all jobs reported; that one 55 years old would be excluded from an additional 21.2 percent, or from a total of 59.3 percent of the jobs; and that an applicant age 65 or over would be excluded from a total of 63.6 percent of the jobs.

That was so merely on the basis of age. It did not take into consideration what one was capable of doing, or what the job was, but the discrimination was merely on account of age.

Therefore, it was deemed, in the opinion of our committee, that we should do something to eliminate this arbitrary discrimination against men or women, irrespective of their race, color, or origin, to do something to stop the discrimination when it was based solely on age.

I agree with the Senator from New York. I would hope very much that the distinguished Senator from Texas, manager of the bill, would be willing to take the amendment to conference. Many people are interested in it. This is a nonpolitical bill. It is a nongeographical bill, because everybody, no matter where he is or what he believes in or what he looks like, gets older.

It has become a tragic situation in the United States that when a person reaches the age of 40, 45, or 50, and he loses his job, even though those who pass on his qualifications may be of the same age group, they do not want to give him a job because he happens to be 40 or 45, and certainly not if he happens to be 50 years of age, even when it has been established, as I shall place in the RECORD, that in many instances they do a better job.

I should like to read from a survey made by the U.S. Employment Service for the President's Council on Aging, in which employers were asked to rate older and younger workers on 10 characteristics related to their jobs, where 500 larger firms, each employing at least 250 workers, responded. The majority of the employers rated workers over 40 equal to or better than younger workers in 9 of the 10 characteristics. These included dependability, lack of absenteeism, quality of work, quantity of production, accident rates, physical capacity, versatility of skills, ability to get along with others, and speed in gaining proficiency on a new job.

In respect to a sense of responsibility, stability of performance, quality of work, and reliability, they rated very high as compared to younger workers.

There is no logical or practical reason why men and women should not be given jobs merely because they have finally obtained the age of 45, 50, or 55.

I hope the Senator from Texas will be willing to take this amendment to conference.

I yield the floor.

Mr. YARBOROUGH. Mr. President, I yield myself 2 minutes.

I am very sympathetic to the purposes of the amendment. As a member of the Committee on Aging, chaired by the distinguished Senator from Florida, and as a member of the Special Committee on Aging of the Committee on Labor and Public Welfare, I have studied this matter with great concern. I would like to see better job protection for the aged. This particular amendment is not germane to the Fair Labor Standards Act which deals with minimum wages and overtime.

The amendment is one that appeals to all of us, I know, with our concern with what is happening to these people.

I have a letter here, dated August 23, 1966, from the Department of Labor, in which they say they are in favor of Federal prohibition of discrimination in employment because of age, but they do not think this is the vehicle whereby it should be added.

There was no hearing on this matter in the House of Representatives, and there was no hearing on this particular bill in the Senate.

Despite those considerations, I am willing to take the amendment to conference. But since it was voted down in the committee 9 to 5, I say to the distinguished Senator from New York that while I will take it to conference, I do not wish to bind myself to try to fight hard to keep it in the bill, when there was no hearing on the matter in either House. If the conferees will agree to it, it can be adopted.

Mr. JAVITS. Mr. President, no one in his right mind would ever turn down an offer like that. I will be a conferee, and I know that other conferees as well will be deeply interested in this matter. I will fight hard for it, but I shall try to shape it so that we can make it even better, along the lines we have discussed.

I might point out that there were very extensive hearings last year before the House Select Subcommittee on Labor dealing with this problem, though not in the specific terms of this measure. The matter has been studied in depth by the Secretary of Labor at the request of the Congress. Everything bears out that there should be Federal law on the subject.

I shall certainly do my utmost to see that whatever does result from the conference will include such a provision, and I am sure that the Senator from Oregon [Mr. MORSE] and other conferees will do their utmost as well.

Mr. YARBOROUGH. I say to the Senator that I, too, would fight very hard against discrimination in a proper law. In the interests of time, I shall not read all the points the Secretary of Labor has raised, pointing out where this provision would conflict with other provisions of the law. No standards and no age limits are set out. In the absence of standards, and with this particular wording, I felt that there were so many gaps that I would not be willing to jeopardize the whole bill for this amendment.

Mr. CANNON. Mr. President, as the sponsor of S. 2887 to prohibit arbitrary discrimination in employment because of age, I support the amendment offered by the distinguished Senators from Florida and New York.

One need only turn to an article such as "I'm Out of a Job, I'm All Through," by Ben H. Bagdikian in the Saturday Evening Post to see that, while our technologically sophisticated society is extending the human lifespan, this same society is also making it difficult for people in the prime of life, from age 45 to age 65, to find jobs. These people, who are too young to retire, are thus deprived of the self-respect that is earned by providing a decent standard of living for themselves and their families.

In addition, the Nation as a whole is wasting 1 million man-years of productive time each year because of the unemployment of workers over 45.

These figures are taken from a 1965 report by the Secretary of Labor, "The Older American Worker: Age Discrimination in Employment." Based on year-long, intensive studies, this report reveals a number of startling facts, including the statement that of the annual \$1 billion of unemployment insurance payments to workers 45 and over, a substantial portion can be attributed to unemployment resulting in some way from the employee's age.

Equally disconcerting are the statistics in the study derived from a survey of over 500 employers employing one-half million workers in 5 cities located in States that did not, as of early 1965, have laws prohibiting age discrimination in employment. This survey disclosed that: First, over 50 percent of the employers contacted used arbitrary age ceilings, usually age 45 to age 55; second, approximately 50 percent of the job openings in the private economy were closed to applicants over 55, and 25 percent to applicants over 45; third, older workers represented less than 5 percent of the new employees in most establishments; and fourth, the proportion of older workers hired by firms with specific upper age limits was 50 percent of the proportion of older workers hired by firms with specific policies against age limits.

Programs for retraining and educating older workers are needed to help them compete with younger applicants and to adapt to the economic and job changes of their later years. But education is not enough to alleviate their plight.

The report by the Secretary of Labor reveals that a significant portion of age restriction in employment is unfair and arbitrary because it involves the refusal of employers to hire people over a certain age without considering individual ability and qualifications, without establishing any actual relationship of age to job requirements.

This report also emphasizes that those States with strong, actively administered laws prohibiting arbitrary discrimination in employment because of age have significantly reduced such discrimination.

Mr. President, Federal legislation is needed to complete the work begun by 21 States so that employers will hire on the basis of ability rather than age. On behalf of the forgotten American, the older American worker, I urge the passage of this amendment.

Mr. JAVITS. I yield 3 minutes to the Senator from New Hampshire.

Mr. COTTON. I thank the Senator from New York. I did not intend to participate at all in this colloquy. But I cannot let pass, without brief comment, what is happening with respect to this amendment.

I have great respect for those who have sponsored the amendment. I have every sympathy with those who desire in some way to prevent discrimination against the elderly. But when you cou-

ple with the proposed modification of the minimum wage law the attempt to work justice that is in the minds of the sponsors of this amendment, it is, Mr. President, a complete revelation and a dead giveaway of what Senators are, in most cases, unintentionally and unconsciously seeking to do.

By the enactment of this law, we would work an injustice on certain elderly people and others, and then turn around, in the same act, and try to correct it. How? By working an injustice on somebody else.

In 1937, when President Franklin Delano Roosevelt submitted the first Minimum Wage Act, he said that it should be confined to those who toil in factories. He went on to say, in essence, that the goods which factories produce compete across State lines, and the Federal Government has an obligation to see to it that no State undercuts another State in the wages it pays.

Then he went on to say:

There are many purely local pursuits and services which no Federal legislation can cover.

The Senate has rejected every attempt to prevent this Federal minimum wage being applied to small businesses along the main streets of the cities, towns, and hamlets of this country. I was prepared to vote for this extension of the minimum wage, if it did not extend coverage beyond reason. But such extension of coverage would now be applied.

I know, in my own State, where we have many small towns and sparsely populated sections, of instances where elderly men are employed in clipping hedges and keeping the grounds neat around some of our resort hotels and similar places. I know of stores where elderly widows, who are not quite able to sustain themselves on the marginal income they receive from social security or other benefit, are able to work part-time, with light employment, in the dress department of a store.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COTTON. I ask the Senator from New York to yield me 2 additional minutes.

Mr. JAVITS. I yield 2 additional minutes to the Senator from New Hampshire.

Mr. COTTON. I thank the Senator.

Four, five, or six of them may be employed in the dress departments of these stores, and as I have said, performing light duties. But when the provisions of this act are applied to such an establishment, the proprietor will be placed in a situation where he must, in many cases, in justice to himself and in order to stay in business, dispense with the services of these lightly employed elderly people, then put on a couple of high-pressure full-time clerks, and pay them in accordance with the Federal standards.

Having perpetrated that situation by this amendment, if it should be agreed to and approved in conference, we turn around and tacitly admit that this is an injustice, but how would we remedy that injustice? We would enable the Secretary of Labor or his representa-

tives, or the courts, under the authority of the Federal Government, to step in and say to these employers, "You cannot guard yourself against the damage that we have done to you by this Minimum Wage Act," when we have extended its provisions into establishments, eventually, with a volume of \$250,000 or \$350,000, or whatever the eventual figure may be.

Mr. President, two wrongs do not make a right. I am just as interested and just as concerned as those who, by the proposed amendment, wish to protect the aged. It may well be that a separate act, wherein we would not create a situation that would hazard the employment of elderly people, could be passed, and that I would be willing to support it. But in the pending bill, we make possible an injustice, and then, in order to protect these people from the injustice, it is sought by this amendment to put it on the shoulders of other people, and take their property without due process of law.

In my opinion, such action by Congress as this would make it impossible for the employer to make the adjustments in his business he would be required to make. For that reason, I would be compelled to vote against this proposition, even though I am sympathetic to and recognize as much as any other Senator the need for protecting our elderly people.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. YARBOROUGH. I yield back the remainder of my time, and agree to accept the amendment and take it to conference, with the limitations I have stated.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. PROUTY. Mr. President, I send to the desk an amendment, and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. On page 39, to strike everything that appears on lines 15 and 16, and insert in lieu thereof the following:

(u) "Man-day" means any day during which an employee performs any agricultural labor for four or more hours.

Mr. PROUTY. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 3 minutes.

Mr. PROUTY. Mr. President, this is really a clarifying amendment. The language appearing on page 39 of the bill relating to "man-days" reads:

Man-day means any day during any portion of which an employee performs any agricultural labor.

That is highly ambiguous language. It could mean that if a man were to work for 5 minutes, it would constitute a man-day. A neighbor or a person from a nearby town, who has other full-time employment but comes to the farm to perform chores for an hour or so in the morning or evening or both, would also constitute a man-day.

Since we are covering agricultural workers for the first time this year, it seems to me that some clarification is desirable.

My amendment would simply provide that an employee must perform farm-work for at least 4 hours a day in order to have the work count as a man-day for the purpose of determining whether the farmer is subject to the minimum-wage law.

I hope very much that the distinguished Senator from Texas will see fit to accept the amendment. I hope that we will not have to have a rollcall vote.

I recognize that the type of farms which I have in mind will not come under the law at the present time. However, no one can foretell what farm coverage will be in the future, and I think we should have some clarification in this definition when it is initially being written into the act.

Mr. President, I reserve the remainder of my time.

Mr. YARBOROUGH. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized for 3 minutes.

Mr. YARBOROUGH. Mr. President, under the bill the man-days for the purposes of agricultural labor means any day upon which an agricultural worker works for any part of the day. It could be an hour or 2 hours.

The man could go out in the morning and get rained out in an hour. However, if he works 18 hours the next day when the field gets dry enough, that would count as 1 day.

With the bill as drawn, the agricultural part of it, a man could work from the earliest dawn until late at night if the field is in shape, and it would count as 1 day.

Under this proposal, any man who would work at least 4 hours a day would have that day counted as a man-day. This would greatly reduce the coverage of agricultural workers. As the bill is written, it will cover 1.6 percent of the farms in America and 390,000 workers. The number of workers who would be exempt from the coverage of the law by means of this proposal has not been estimated. We have not had a chance to estimate that. However, by scheduling the work in such a way that a man can work on the farm for 4 hours one day and 3¾ hours the next day, the big farm operators—the operators who have hundreds of employees working—could work it out so that the employees would be exempt.

These big operators have bookkeepers. They are competing with the family farmers who have no hired men, or perhaps one or two men.

Under the law, the farm operator can work a man for 18 hours a day and it would count as 1 man-day for the purpose of determining whether he had had 500 man-hours of labor in any one quarter.

The bill would permit a farm operator to work his employees as long as he wished on any particular day without requiring him to count it as 2 days. It would still be counted as 1 day. He could work him for 16 hours. The law

does not require that farmer to count that as 2 days.

The bill would balance the situation. However, if the farm hands are taken out of the field because of rain, it would be counted as a day.

The farmer is permitted to work his hands for 18 hours a day if the weather is favorable.

We think it would create an injustice in the law if we were to incorporate in it this 4-hour provision. It would require a lot of bookkeeping, whereas now this bookkeeping would not be required.

I think it would be an impediment to the proper working of the agricultural section of the law.

The committee recommends that the amendment be rejected.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. PROUTY. Mr. President, I yield to my senior colleague from Vermont.

Mr. AIKEN. Mr. President, I think the amendment offered by my colleague is a good amendment. I do not see why, if a farmer is away on vacation, and has somebody come in to feed the dogs for 15 minutes a day, he should be charged with a full day of employment.

I think that the definition of "man-day" in the bill is an extremely bad proposal.

As for any farmer working his hands for 18 hours a day, perhaps the Senator from Texas knows where they do that, but the farmers I know usually work them 8 hours a day on most days, unless they do piecework, in which case I understand that the bill would take care of the situation.

The bill, as written, could create a most incorrigible nuisance.

If a man were to come on one day, perhaps to shut off the water, and were then to go to work for a full day somewhere else, the farmer for whom he worked for 10 minutes would be charged with a full day.

Mr. YARBOROUGH. Mr. President, I point out that before a farm operator would come under the law, he must have an equivalent of seven full-time workers. If he has seven full-time workers, surely one of them could feed the dogs and shut off the water without having somebody come by the farm to do that. It would be done as a part of the farm chores.

Mr. AIKEN. If a man were in the hospital for a month, he could get charged with 30 man-days, perhaps for 2 hours of time. It is a very unfair definition.

Mr. YARBOROUGH. Mr. President, as one who grew up in a farm community and observed the way in which people lived—having lived there until I was 24 years of age—I think this is a very strained example that our good friend on the other side of the aisle, the senior Senator from Vermont, whom we all love, has raised.

The Senator knows that in a rural community the neighbors or the family would come in. It would not be necessary to hire a man to come in and feed the dogs or to do anything else. It might happen somewhere, but I have never heard of it in my part of the world.

Mr. AIKEN. If any of the neighbors help out for 15 or 20 minutes, it would

not be necessary to pay him the minimum wage. Someone—a neighbor or a person from town—would have to be employed to feed the hogs and chickens and milk the cows. Such work, for an hour or two a day, would be 30 man-days a month.

Mr. YARBOROUGH. The big operators have scores of employees. They have the bookkeeping and other means by which they can telescope these wages and avoid the effect of the law.

I recommend that the amendment be rejected.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. PROUTY. Mr. President, I yield to the senior Senator from Florida such time as he may need.

Mr. HOLLAND. Mr. President, the Senator from Texas speaks of the big operators throughout the country. This law would cover any farm operator in the United States who would have 500 man-days of work in one quarter and seven employees.

There are many small citrus groves in my State which require that much work during the time of the harvest and never require it for the rest of the year.

It would be entirely inapplicable to say that this would apply only to the big people. I think that the suggestion of the Senator from Vermont is a good one. In effect it says that we will let half a day count as a day, or less than half a day, the way most work is done on the farms. I believe it is a 4-hour suggestion.

I see nothing wrong with it. To the contrary, it seems to me to be a much more reasonable way of measuring the time of work which is performed in rural work and work on the farm than to merely say that every person who reports to work and is disturbed by a shower or some other cause within a few minutes after he starts to work, and has done a limited amount of work, such as feeding stock and then goes to work at some other location should be regarded in the other three quarters as having worked a day.

I hope that the amendment will be agreed to.

Mr. YARBOROUGH. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 minutes.

Mr. YARBOROUGH. Mr. President, the provision in the law calls for 500 man-days in the quarter.

Mr. HOLLAND. The Senator is correct.

Mr. YARBOROUGH. It is a calendar quarter. Great pleas were made to us to change that to any quarter in which the peak employment occurs. It was pointed out that the calendar quarter ends at the end of March or at the end of June and would so split agricultural labor as to lessen the amount of coverage. We retained it on the calendar quarter basis because with social security and other tax-keeping requirements people are used to keeping their books. It makes it fairer.

We never require the farmer under this law to limit himself to 8 or 10 hours a day.

The agricultural interests have gotten the benefit of unlimited hours worked by their employees. They can work them 18 hours a day. If Senators have not seen farmers work 18 hours a day, I am surprised. I have followed the wheat harvest from Oklahoma to Kansas, and I have seen it.

Mr. HOLLAND. Mr. President, the Senator admits that 500 man-days of only the fourth quarter would put a person under the bill for all quarters of the year.

Mr. YARBOROUGH. The Senator is correct.

Mr. HOLLAND. That is the point I make, and it is a valid point, that in many operations, too much farmwork is required in a certain quarter and all the other quarters have no such requirement at all. Harvesttime is the time for the maximum requirement of labor, as the Senator well knows.

Mr. YARBOROUGH. The Senator is correct.

Mr. HOLLAND. It is rather ridiculous to my mind to say that, for the other three quarters a person comes under the bill concerning his rights as to employment and his rate of pay simply by serving a minimum period of time each day.

Mr. AIKEN. Mr. President, will the Senator from Texas yield?

Mr. YARBOROUGH. I yield.

Mr. AIKEN. Mr. President, if a farmer has a machine break down and has someone come out to fix it and it requires only 15 minutes to fix it, would the farmer then be charged with a day's time?

Mr. YARBOROUGH. That man would not be the farmer's employee. He merely calls an implement dealer to fix a machine.

Mr. AIKEN. Why is he not his employee? He hired him to fix a machine.

Mr. YARBOROUGH. If people come on a farm to fix a well or a machine, they are not employees.

Mr. AIKEN. I am glad to have that much plan anyway.

Mr. YARBOROUGH. That is made plain. He is an independent contractor.

Mr. President, I yield myself 20 seconds.

This is just a farm-provision-wrecking amendment, and it would absolutely wreck the farm provisions of the law.

I yield back the remainder of my time.

Mr. PROUTY. I yield myself 1 minute.

I do not wish to prolong the debate. I think we all know what the amendment provides. I ask for a division.

I yield back the remainder of my time.

Mr. YARBOROUGH. I request the yeas and nays on this amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has been yielded back.

Mr. YARBOROUGH. Mr. President, I ask for the yeas and nays on final passage of the bill.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I yield 1 minute on the bill to ask the manager of the bill and, through him, other Senators whether there are any other amendments; because many Senators have

come to me and asked as to the time disposition.

Mr. YARBOROUGH. Mr. President, I have had many pleas, on account of time, to withdraw the request for a roll-call vote on the amendment of the Senator from Vermont. It will save a half hour. Some Senators have told me that they wish to take planes at 6:45 and at other times.

I ask unanimous consent to withdraw the request for a rollcall vote on the amendment of the Senator from Vermont [Mr. PROUTY].

Mr. AIKEN. I object.

The PRESIDING OFFICER. Objection is heard. The yeas and nays have already been ordered. The question is on agreeing to the amendment of the Senator from Vermont. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. LONG of Louisiana. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Tennessee [Mr. BASS], the Senator from Idaho [Mr. CHURCH], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. HARRIS], the Senator from Missouri [Mr. LONG], the Senator from Montana [Mr. METCALF], the Senator from Oklahoma [Mr. MONRONEY], and the Senator from Maine [Mr. MUSKIE] are absent on official business.

I also announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Illinois [Mr. DOUGLAS], the Senator from Indiana [Mr. HARTKE], the Senator from Arizona [Mr. HAYDEN], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Minnesota [Mr. MONDALE], the Senator from Oregon [Mrs. NEUBERGER], and the Senator from Georgia [Mr. RUSSELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], the Senator from Maryland [Mr. BREWSTER], and the Senator from Missouri [Mr. LONG] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], and the Senator from California [Mr. MURPHY] are absent because of illness.

The Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK] are absent on official business.

The Senator from Idaho [Mr. JORDAN] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

The Senator from Hawaii [Mr. FONG], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from South Carolina [Mr. THURMOND] are detained on official business.

If present and voting, the Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK], the Senator from Utah [Mr. BENNETT], the Senator from Idaho [Mr. JORDAN], the Senator from California [Mr. MURPHY], and the Senator from Wyoming [Mr. SIMPSON] would each vote "yea."

On this vote, the Senator from South Carolina [Mr. THURMOND] is paired with the Senator from Hawaii [Mr. FONG]. If present and voting, the Senator from South Carolina would vote "yea," and the Senator from Hawaii would vote "nay."

The yeas and nays resulted—yeas 37, nays 37, as follows:

[No. 231 Leg.]

YEAS—37

Aiken	Fulbright	Pearson
Bayh	Griffin	Prouty
Boggs	Hickenlooper	Robertson
Byrd, Va.	Hill	Russell, S.C.
Carlson	Holland	Scott
Cooper	Hruska	Sparkman
Cotton	Jordan, N.C.	Stennis
Curtis	Lausche	Talmadge
Dirksen	Mansfield	Tower
Eastland	McClellan	Williams, Del.
Ellender	Miller	Young, N. Dak.
Ervin	Morton	
Fannin	Mundt	

NAYS—37

Anderson	Kennedy, Mass.	Pell
Bible	Kennedy, N.Y.	Proxmire
Burdick	Kuchel	Randolph
Byrd, W. Va.	Long, La.	Ribicoff
Cannon	Magnuson	Smathers
Case	McCarthy	Smith
Clark	McGee	Symington
Dodd	McGovern	Tydings
Gore	Montoya	Williams, N.J.
Hart	Morse	Yarborough
Inouye	Moss	Young, Ohio
Jackson	Nelson	
Javits	Pastore	

NOT VOTING—26

Allott	Gruening	Monroney
Bartlett	Harris	Murphy
Bass	Hartke	Muskie
Bennett	Hayden	Neuberger
Brewster	Jordan, Idaho	Russell, Ga.
Church	Long, Mo.	Saltonstall
Dominick	McIntyre	Simpson
Douglas	Metcalf	Thurmond
Fong	Mondale	

The PRESIDING OFFICER. On this vote the yeas are 37, the nays are 37, a tie vote, and the amendment is rejected.

The bill is open to further amendment.

Mr. MORSE. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MORSE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

On page 49, line 20, add "and employees of bowling establishments".

On page 50, line 2, change "paragraph" to "paragraphs".

On page 50, after line 9, add the following new paragraph:

"(20) any employee of a bowling establishment."

Mr. MORSE. Mr. President, it is my understanding that the chairman of the subcommittee is willing to take the amendment to conference.

I would like to have the attention of the Senator from New York [Mr. JAVITS] in regard to the amendment.

The amendment involves the bowling alley establishment problem. It will be recalled that the workers in the restaurants in bowling alleys come under the minimum wage under the bill, but not under overtime. The other employees in the bowling alleys would be under overtime. There is a great deal of crossing of jobs. They work in the restaurant a part of the time and in other parts of the establishment at other times.

The statement which I shall put in the RECORD sets forth in detail the problems that have arisen in the bowling establishments. It would seem, due to the fact that we are bringing them in under the minimum wage, that they should be exempted from the overtime for the time being. That is the effect of the amendment.

The Bowling Proprietors Association includes among its membership in excess of 6,000 bowling establishments operating over 100,000 bowling lanes, located in every State in the Union. The membership covers all aspects of bowling—tenpins, duckpins, rubberband duckpins, and candlepins. The association represents more than half of the total bowling establishments in the United States, and the members operate more than three-fourths of the bowling lanes in this country.

For some time the association has been deeply concerned with the legislation that has been pending in the Senate "to amend the Fair Labor Standards Act of 1938, to extend its protection to additional employees, to raise the minimum wage, and for other purposes."

The bill generally seeks to extend coverage of the present Fair Labor Standards Act to include many industries not now covered, both with respect to the minimum wage and the overtime provisions.

Section 13 of the present law exempts from section 6—minimum wages—and from section 7—maximum hours—subject to certain qualifying conditions, a number of specified industries, among which are the following: Hotels, motels, restaurants, food service establishments, motion picture theaters, and seasonal amusement or recreational establishments. There is also an underlying small business exemption for all establishments with an annual dollar sales volume of less than \$250,000.

Complete exemption from coverage under the act is allowed to continue with respect to motion picture theaters. Coverage is extended, however, to include under the minimum wage provisions hotels, motels, restaurants, and food service establishments, but to allow the present exemption from the overtime provisions to continue.

It appears to be unfair to permit hotels, motels, restaurants, and food service establishments to continue with the overtime exemption—although now to be covered under the minimum wage provisions—and with motion picture theaters to be allowed to continue with complete exemption from both the minimum wage and overtime provisions, and at the same time not to allow bowling establishments to have at least an exemption from the overtime provisions. We have been told that the continued overtime exemption for hotels, motels, restaurants, and food service establishments, as well as the complete exemption for motion picture theaters, is based upon the concept that all are subject to extremely long work days, beginning early in the morning and extending far into the night or early morning, and remaining open 7 days a week, which makes the present 40-hour maximum work week unrealistic and not reasonably applicable to such long day and long work week employment.

Exactly the same long day and long work week pertain in the bowling industry. Bowling establishments are open from 9 a.m. or earlier until 12 midnight or later, and remain open 7 days a week. It would seem in all fairness and for the same basic reason that bowling establishments should be placed in the same category and extended the same treatment, so far as exemption from the overtime provisions of the act are concerned, as is now proposed under H.R. 13712 with respect to hotels, motels, restaurants, food service establishments, and motion picture theaters.

Mr. YARBOROUGH. I understand the amendment of the Senator from Oregon applies only to overtime. A part of the bowling alley employees are not covered and a part of them would be covered as to overtime.

Mr. MORSE. The Senator is correct. The Senator from New York [Mr. JAVITS] and I suggested other language in the bill. We discovered later from the Department that it would not work out. There is no question about this proposal working out.

Mr. YARBOROUGH. Mr. President, I accept the amendment and we will take it to conference.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MORSE. I yield back the remainder of my time.

Mr. YARBOROUGH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon [Mr. MORSE]. [Putting the question.]

The amendment was agreed to.

Mr. GORE. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Page 67, line 8: Strike out the words: "and study" and insert in lieu thereof "study; and Government contracts".

Page 68, after line 11, insert the following: "Sec. 604. In the event any employer is engaged in work on a contract with the United States Government negotiated or awarded prior to the enactment of this Act, but such contract, if materially affected by this Act, may be re-negotiated to reflect whatever increased cost of labor that may be necessitated by the terms of this Act notwithstanding the provisions of any other Act."

Mr. JAVITS. Mr. President, may we have an explanation of the amendment?

Mr. GORE. Mr. President, there is a small business in Knoxville, Tenn., that has a contract to furnish tents to the Army and it runs over 12 months. It would be very close to the edge.

The amendment provides that in the case the bill materially affects the cost of the product he shall be permitted to apply for reconsideration or renegotiation of his contract.

Mr. JAVITS. This is a totally different problem than we are dealing with. I have no objection.

The Senator from Iowa [Mr. HICKENLOOPER] points out that it could apply to any contract.

Mr. GORE. It could apply to anyone in this circumstance.

Mr. JAVITS. If the Senator from Texas [Mr. YARBOROUGH] wishes to ac-

cept it at this late hour, the Senator from Tennessee [Mr. GORE] will understand that those of use on this side of the aisle reserve the right to take a look at it.

Mr. YARBOROUGH. Mr. President, I accept the amendment, with that reservation.

Mr. President, I yield back the remainder of my time.

Mr. GORE. Mr. President, I yield back the remainder of my time.

Mr. PASTORE. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER (Mr. BURDICK in the chair.) The Senate will be in order.

The question is on the amendment of the Senator from Tennessee [Mr. GORE]. [Putting the question.]

The amendment was agreed to.

Mr. AIKEN. Mr. President, I wish to propose the same amendment that my colleague from Vermont [Senator PROUTY] offered, except instead of requiring a man to work 4 hours before a farmer is charged a man-day, I would require him to work 1 hour before the farmer could be so charged.

I do not know where it comes in the bill, but I ask for the yeas and nays.

If we do not adopt this amendment, it shows how ridiculous and unfair this bill will be in operation. If a man cannot work 1 hour for his pay, we should not vote for the bill.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 39 strike everything that appears on lines 15 and 16 and insert in lieu thereof the following:

"(u) 'Man-day' means any day during which an employee performs any agricultural labor for one hour."

Mr. YARBOROUGH. Mr. President, I accept that amendment and I will take it to conference.

Mr. President, I yield back the remainder of my time on this amendment.

Mr. AIKEN. Mr. President, I yield back whatever time I have remaining.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont [Mr. AIKEN]. [Putting the question.]

The amendment was agreed to.

Mr. McGEE. Mr. President, I send to the desk an amendment and I ask that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 41, line 19, immediately following the word "harvest" add the words "or hand cultivation."

Mr. McGEE. Mr. President, I shall explain the amendment quickly. The Senator from Texas [Mr. YARBOROUGH] assured me that he will take the amendment to conference.

The amendment would add to the harvest workers those who do piecework in the field. We have cases where they are paid for piecework for 2 or 3 weeks.

Mr. MANSFIELD. Mr. President, I suggest that the amendment be read, and that all amendments be read.

We are getting close to the shank of the evening and we should maintain our decorum and dignity.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 41, line 19, immediately following the word "harvest" add the words "or hand cultivation."

Mr. JAVITS. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. JAVITS. Mr. President, we already have piece-rate provisions in the bill for agricultural workers. I am advised that the Wage and Hour Division believes the amendment will affect a very small number of workers. Therefore, on the assumption that it will not change the general pattern with relation to piecework in the bill, and that it will affect only a very limited number of workers, I am agreeable to taking the amendment to conference.

Mr. McGEE. Mr. President, I should like to take a few minutes to briefly discuss and explain the amendment which I have proposed to H.R. 13712.

Under the terms and conditions set forth in the bill, as reported by the committee, "hand harvest laborers" who are paid on a piece-rate basis are exempted from coverage under the agricultural provisions of the bill. My amendment, if approved, would increase this exemption to include certain hand laborers who historically have been paid on a piece-rate basis but who perform work other than harvesting.

I have in mind particularly those individuals who are used quite extensively in my State and many others in the thinning and weeding operations of the sugarbeet industry. Since this particular work is highly seasonal in nature, it is necessary that our sugarbeet growers utilize a substantial number of people for a relatively short period during the spring and early summer each year.

It does appear to me that since the committee bill would grant this exemption to harvest laborers, we should extend the exemption to include laborers of this similar class who are utilized during the course of the growing season also.

Mr. YARBOROUGH. Mr. President, I accept the amendment, I yield back the remainder of my time.

Mr. McGEE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

AMENDMENT NO. 767

Mr. ELLENDER. Mr. President, will the Senator from Texas yield me 2 minutes on the bill?

Mr. YARBOROUGH. Mr. President, I yield 2 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The

Senator from Louisiana is recognized for 2 minutes.

Mr. ELLENDER. Mr. President, I intended to present amendment No. 767 dealing with sugarcane labor. I understand that this amendment is in the House bill.

I do not propose to submit it, but ask unanimous consent that it be printed in the RECORD, as well as an explanation of it, and would ask my good friend from Texas to consider it and adopt the views of the House in the matter.

There being no objection, the amendment and explanation were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 767

On page 42, line 12, before the period insert a semicolon and the following: "or (F) if such employee's wage rate is established by the Secretary of Agriculture under section 301(c) (1) of the Sugar Act of 1948 or under any other provision of law or if the Secretary of Agriculture has authority, under such section or under any other provision of law, to establish such employee's wage rate; or".

STATEMENT BY SENATOR ELLENDER

My amendment to the Committee bill would have excluded sugarcane farm workers from coming under the provisions of the Fair Labor Standards Act because at the present time the Secretary of Agriculture is authorized to set minimum wages for these workers under the authority contained in the Sugar Act of 1948, as amended.

The inclusion of sugarcane farm workers under the Fair Labor Standards Act is completely unnecessary and unwarranted because as I said these workers now are, and have been since 1948, covered under the provisions of another federal statute, Section 301(c)(1) of the Sugar Act of 1948, as amended. Under authority contained in the Sugar Act, the Secretary of Agriculture, after a public hearing, determines the specific rates to be paid workers in various job classifications, on sugarcane farms in Louisiana and Florida. Unless this provision is adopted in the conference, employers of sugarcane workers will be subject to two different minimum wage laws, administered by two different administrators, in two different executive departments of the government. H.R. 13712, as presented by the Senate Labor Committee provides for a minimum wage for agricultural (sugarcane) farm workers regardless of the type of work they perform or where they perform it. The minimum wages fixed by the Secretary of Agriculture provide for wage differentials between various types of work. In making his determination, he considers the cost of living in the area, the prevailing wages in the area and the ability of the employer to pay. The committee bill takes none of these things into consideration.

The exemption of an employee because of his coverage under the provisions of some other federal act is well recognized in establishing exemptions under the Fair Labor Standards Act. For instance, under Section 13(b) of the Act as presently written, several exemptions from the overtime provisions of the Act are based on an employee's coverage under another federal statute, namely, employees covered by Section 204 of the Motor Carrier Act of 1935, employees of an employer subject to the provisions of Part I of the Interstate Commerce Act, and any employee of a carrier by air subject to the provisions of Title II of the Railway Labor Act.

In addition to controlling the wage rates for sugarcane farm workers, the Secretary of Agriculture also controls the price of sugarcane. In that connection, the U.S. Department of Agriculture on May 12, 1966,

announced public hearings on fair prices for the 1966 Louisiana and Florida sugarcane crop and on whether the wage determinations applicable to fieldworkers in Louisiana and Florida should be continued or amended.

H.R. 13712 would not require small farmers to pay the minimum wage but this exemption is meaningless since the small farmers would have to pay the minimum anyway in order to compete with their larger neighbors in hiring workers.

Mr. ELLENDER. Mr. President, under the Sugar Act since 1948 sugarcane workers have had their wages fixed by the Department of Agriculture, which is in a better position to fix a fair and just wage than is Congress. Here we have a situation where the Department of Labor will barge in without any expertise in the field of agriculture and attempt to regulate farm wages. I can think of nothing worse than two departments of the Federal Government attempting to regulate and police the identical thing, that is, wage of sugarcane workers. I am hopeful that those members of the conference committee will consider the House views and also the reasons which I have submitted today and agree to accept the House views.

Mr. HOLLAND. If the Senator will yield, I ask that my name be added as a cosponsor of the Senator's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLAND. Mr. President, I had a similar amendment, and I feel exactly as the Senator from Louisiana has expressed himself. I think the House is right on this matter. To me, to make two Cabinet officers take jurisdiction over the same subject matter is a rather ridiculous situation, particularly when the Secretary of Agriculture must determine all the other complicated things which have to do with the matter of allotment and handling of the sugar program.

I hope that the House views will prevail. I strongly suggest and urge to the conferees that they give careful attention to the difficulties which would be presented by having double jurisdiction in this matter.

Mr. SMATHERS. Mr. President, I ask unanimous consent that I may join the Senator from Florida [Mr. HOLLAND] as a cosponsor of the amendment of the Senator from Louisiana [Mr. ELLENDER].

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTION OF THE RECORD

Mr. HOLLAND. Mr. President, will the Senator from Texas yield me 1 minute on the bill?

Mr. YARBOROUGH. Mr. President, I yield 1 minute to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 1 minute.

Mr. HOLLAND. Mr. President, on yesterday, I called up my amendment No. 766 and read from it the names of cosponsors which showed, by the way, on the amendment that was at the desk. I note that in the report on this matter in the second column on page 19748 of the CONGRESSIONAL RECORD, the name of the Senator from Kentucky [Mr. COOPER]

was inadvertently omitted. I ask that his name be inserted at this time.

The PRESIDING OFFICER. The correction will be made as requested by the Senator.

Mr. HOLLAND. Mr. President, will the Senator from Texas yield me 1 more minute?

Mr. YARBOROUGH. Mr. President, I yield 1 minute to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 1 minute.

Mr. HOLLAND. Mr. President, I shall vote against the pending bill because of the many objections I have to it. I shall mention only two at this brief time.

First, I think that the inclusion of agricultural labor and the method of their inclusion is both unprecedented, unjustified, and unfair.

Second, I feel that this bill marks the continued expulsion of any differences between interstate and intrastate business, in that the bill proposes to go into a business which has been regarded as entirely intrastate in such fields as those affecting the operation of hotels, motels, restaurants, laundries, and the like. It seems to be the desire of the liberal forces in this country to completely obliterate State lines.

I shall have no part of that.

Therefore, I shall vote against the pending bill.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as amended.

The amendment as amended was agreed to.

Mr. MORSE subsequently said: Mr. President, without taking the time to read the entire document, I wish to point out that yesterday the Senator from California [Mr. KUCHEL] offered and discussed an amendment concerning wage rates in the Panama Canal Zone. His amendment called for a study of these rates to be completed and submitted to Congress by July 1, 1968.

Mr. President, the language of the bill that deals with the application of the minimum wage rates to the Panama Canal Zone is my language, which I offered by way of an amendment in committee, which was adopted in committee, and which is a part of the bill.

The proposal of the Senator from California for a study of these rates to be completed and submitted to Congress by July 1, 1968, in no way affects the immediate application of the wage rates provided in the bill. If those wage rates are in the bill when the bill comes out of conference—as I think and hope will be the case—it will be signed by the President.

Mr. President, for the purpose of legislative record and history as to the background of the language dealing with the Panama Canal Zone, I ask unanimous consent that the following material be printed in the RECORD:

My statement on the subject; a letter of July 12, 1966, to Senator YARBOROUGH, signed by David E. McGiffert, Under Secretary of the Army; a letter of August 22, 1966, addressed to Senator HILL, chairman of the Committee on Labor

and Public Welfare, signed by Roy G. Banks, chairman of the Intercoastal Steamship Freight Association; a letter of August 1, 1966, addressed to me, from the American Merchant Marine Institute, Inc., signed by Ralph E. Casey, president; a letter of May 24, 1966, addressed to Mr. Thomas E. Morgan, international union field staff director, AFL-CIO, signed by William H. Sinclair, international union general representative, dealing with this Panamanian problem, with certain exhibits and tables and charts dealing with the issue; and certain other communications that I have received on the same subject.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR MORSE

Mr. President: Yesterday the Senator from California, Mr. KUCHEL, offered and discussed an amendment concerning wage rates in the Panama Canal Zone. His amendment called for a study of these rates, to be completed and submitted to Congress by July 1, 1968.

It was upon my motion that the subcommittee agreed unanimously to apply coverage of the Fair Labor Standards Act to employees of nonappropriated federal agencies in the Canal Zone. It already applies to private employers in the Canal Zone, of whom there are a few but not many.

When I first considered offering this amendment in Committee, I had my office check with the Department of State, the Department of the Army, and the office of the Canal Zone Governor here in Washington. The Panama desk at the State Department had no opinion on the matter, either for or against. The Department of the Army was opposed for the same reason that it was opposing extension of minimum wage coverage to all of its non-appropriated functions, as provided in the House bill. The office of the Canal Zone Governor expressed no opinion.

It was not until some ten days later that the Department of the Army came forward with a letter in opposition to the amendment. It was addressed to Senator YARBOROUGH, chairman of the labor subcommittee, and I ask unanimous consent that it be printed in the RECORD.

I note that the Department of the Army speaks for the State Department on the matter of treaty negotiations with Panama for a new canal treaty. To this day, the State Department has never had a word to say itself on any possible connection between this provision in the bill and treaty negotiations with Panama.

What is at issue here is whether the Canal Zone government is going to pay Panamanian nationals—for it is they who are at the bottom of the wage scale and hold most of the jobs that would be affected—a statutory minimum wage which must be paid to Americans elsewhere, and which must be paid to American and Panamanians alike in the Canal Zone if they are employed by private employers.

The figures furnished by Senator KUCHEL yesterday show that 2,200 Panamanians employed by private employers in the Canal Zone are presently covered by the statutory minimum wage of \$1.25 an hour.

But the great, munificent government of the United States pays Panamanians as little as 85¢ an hour. The figures would also leave the impression that Americans living in the Zone in the number of 2,000 also receive only 85¢ an hour but this does not include their "tropical living allowance."

Much is made of the idea that Panamanians who work for the Panama Canal Com-

pany or Canal Zone government will enjoy a much higher income than their fellow Panamanians who do not, and this will tend to cause dissension within the country.

But I assure Senators that disparity among Panamanians is not the source of dissent. Dissension arises from the disparity in wages paid to Americans and Panamanians who each work for the United States in the Zone, and despite all the assurances that the pay is equal, the fact is that it is not.

The American worker doing the same work as a Panamanian receives in theory the same wage. But on top of it he receives what is called a "tropical living allowance" which the Panamanian does not receive.

Our whole trouble in Panama stems from the fact that we are subsidizing American shipping by exercising monopoly control over a natural resource belonging to Panama, and by using Panamanian labor that we think we can pay less than American labor. It is said that the national minimum wage in Panama is between 42 and 62¢ an hour. But I point out that minimum wages in many American states are in that range too, yet we apply a federal minimum in an effort to raise the prevailing level of wages. The \$1 an hour these newly covered people would receive is hardly based on American standards of living. It is a poverty wage in the United States. The bill subsequently raises them to \$1.15 an hour in 1968, \$1.30 an hour in 1969, \$1.45 an hour in 1970 and \$1.60 an hour in 1971. Since they come in as newly covered workers this will still leave them behind their compatriots in private U.S. employment, who will receive \$1.60 an hour by 1968.

I know all the arguments of the shipping industry. My state is deeply involved in coast-wise shipping. I have heard from all the same people the Senator from California has heard from, plus the officials of the Port of Portland.

I am concerned about the possibility that paying Panamanians a minimum wage will result in some increase in canal tolls. The canal is self-supporting. It does not receive appropriations. It fixes tolls according to costs. The wage cost will go up if the bill is enacted in this form.

But I ask Senators, what wage cost will not go up upon enactment of this bill, where the wages paid are less than the figures included in the bill?

And what divine right do we have to use the geographic features of Panama as a subsidy to American shipping? The troubles we have there flow from exactly the case made by the shipping industry that this cost of Panamanian labor should be kept as low as possible because paying higher wages would increase costs to American business.

I ask unanimous consent to have certain correspondence to this effect which I have received printed at this point in the Record.

I point out that the amendment approved by the Labor Committee and now in the bill brings these people in as newly covered, and hence starts their coverage at \$1 an hour, rising to \$1.60 an hour not in three years, but after five years. So some of the information concerning the impact of the minimum wage is erroneous, as are the assumptions of the advocates of the amendment.

It would be my hope and prayer that when the United States goes abroad to undertake what amounts to a commercial enterprise requiring the use of someone else's territory, we would do all we could to contract for that territory and for whatever local employees are needed in connection with it in a manner that would reflect favorably upon both the United States and upon the economic fruits of our free enterprise system.

We should be doing everything we can to impress upon Panamanians and Latin Americans everywhere that the Canal is a boon to

private enterprise and that its fruits can and will be shared on a basis of full equality.

What we are doing instead is considering the canal as something we can monopolize any way we see fit because we are big and powerful and Panama is small and weak. American industry is making a mistake in sending out the word that Canal tolls should be kept low, no increase in labor costs should be allowed, because this is our monopoly and Panamanians are accustomed to low standards of living.

That is planting the seedbed for more trouble over the future use and operation of the Canal.

I am entirely aware of the economic problems of the American shipping industry. But we are a huge, rich, industrial nation. Do we have to subsidize our shipping industry out of the labor of Panamanians? Is that how hard up we are? Is that the policy we want to pursue to the detriment of our relations in the western hemisphere and in our dealings with Panama over the future of the Canal?

The Canal is the representative of the United States in Central America. I want it to be a model employer, not an exploiter. I want it to reflect good will upon the United States and to advertise the blessings of free enterprise.

We have just appropriated the \$58 billion to wage war and finance our armies; we spend \$5 billion every year to send a man to the moon. Now some would have us say to Latin America: "The economic skies will fall on us if the U.S. Government has to pay a few thousand Panamanians as much as \$1 an hour."

I will do all I can to help our shipping industry, but not that way.

I want to thank the Senator from California for the amendment he offered and which has been adopted. It leaves this new coverage untouched, but it will give us the results of a study before the final increases go into effect.

Finally, I ask unanimous consent to have printed at this point certain correspondence furnished me by the American Federation of State, County, and Municipal Employees in support of the amendment.

JULY 12, 1966.

The Honorable RALPH W. YARBOROUGH,
Chairman, Subcommittee on Labor, Committee on Labor and Public Welfare, U.S. Senate.

DEAR MR. CHAIRMAN: This is with respect to a possible amendment to section 306 of HR 13712. The Deputy Secretary of Defense in a letter to Chairman Hill on June 17, 1966 has recommended elimination of section 306 of HR 13712. In addition, it is understood that it may be proposed that the Subcommittee amend HR 13712 so as to make section 306 thereof applicable to certain overseas areas, including the Canal Zone, by deleting lines 19 and 20 on page 27 of the bill and substituting the words "place described in Sub-section F of Section 13 of this Act, shall have his basic compensation fixed or adjusted." The purpose of this letter is to furnish comments on this proposal on behalf of the Secretary of the Army as the executive officer responsible for supervision of the Panama Canal Company and Canal Zone Government. The Secretary of the Army also has responsibility for supervision of the Canal Zone merit system and uniform pay plan, under which basic pay rates are set which are applicable to U.S. and Panamanian citizens without discrimination, and which apply to employees of all Federal agencies in the Canal Zone.

While it is not clear from the text of the proposed amendment whether or not its intent would be to extend the minimum wage applicable to private employees to all Federal

employees in the Canal Zone, including employees of the Panama Canal Company and Canal Zone Government, the amendment might be so interpreted. I am advised by the Governor of the Canal Zone that such an interpretation would result in an increased cost to the United States Government of approximately \$4 million the first year (\$3 million for the Panama Canal Company and Canal Zone Government alone), rising to \$16 million per year (\$13 million for the Panama Canal Company and Canal Zone Government alone) after four years when the \$1.60 per hour minimum rate would be fully implemented.

As you know, negotiations are currently under way with the Republic of Panama looking toward a new treaty for the Panama Canal which will provide, in the words of the joint statement issued by President Johnson and President Robles of Panama on September 24, 1965, for Panama to "share with the United States responsibility for administration, management and operation of the Canal," and to "provide for an appropriate political, economic and social integration of the area used in the canal operation with the rest of the Republic of Panama."

The minimum wage paid to Panamanians working for Federal agencies in the Canal Zone is now 85¢ an hour, compared to minimum wage levels of 42¢ to 62¢ in the Republic of Panama. A drastic increase in this disparity would render even more difficult the task of providing for an appropriate integration of the Canal Zone with the rest of Panama.

Of equal or greater concern is the fact that an increased cost of this magnitude would be passed on to the Canal enterprise under whatever new arrangements may be worked out as a result of current negotiations, and would saddle the enterprise with an extreme financial burden at the very outset of its operation under these new arrangements. Even under continuation of present management arrangements, the Panama Canal Company would almost certainly be compelled to seek an increase in tolls or other outside financial assistance in order to meet an increased payroll of this magnitude. The effect of such an increased burden on any new arrangements is certain to be at least as adverse.

For the reasons set forth above, I strongly recommend that the amendment referred to not be included in HR 13712.

The Department of State and the Joint Chiefs of Staff have been consulted and concur in the above report.

The Bureau of the Budget has advised that it has no objection to submission of this letter to your Sub-committee.

Sincerely,

DAVID E. MCGIFFERT,
Under Secretary of the Army.

INTERCOASTAL STEAMSHIP
FREIGHT ASSOCIATION,
New York, N.Y., August 22, 1966.

Hon. LISTER HILL,
Chairman, Labor and Public Welfare Committee, U.S. Senate, Washington, D.C.

DEAR SIR: It is understood that an amendment to the Fair Labor Standards Act is being considered whereby the United States minimum wage coverage would be extended to cover all workers in the Panama Canal Zone. It is also understood the Army has estimated that within five years' time increased minimum wages under this amendment would add \$12 million to the cost of operating the Panama Canal. This estimate is based on the present number of employees and includes Panamanian Nationals, who presently comprise approximately two-thirds of the existing Canal Work Force.

The undersigned has recently addressed members of the Senate calling attention to the apprehension of this Association's membership concerning the potential increase in Panama Canal tolls that will result from a revision of the Panamanian Treaty presently under consideration. The members of this Association are not subsidized and Panama Canal Tolls represent one of their largest single items of expense. They can ill-afford any increase in those tolls.

While our members are not opposed to extension of an increase in the minimum wage to include United States citizens employed in the operation of the Panama Canal, the extension thereof to foreign nationals would not only be an indirect means of extending Foreign Aid but would add substantially to cost of operating the Canal and result in higher tolls. Therefore, it is felt, if circumstances warrant an extension of the minimum wage coverage, such should be limited to United States citizens and not extended to foreign nationals so as to minimize to the fullest extent possible the effect of any increased cost on waterborne commerce of the United States.

Very truly yours,

ROY G. BANKS, *Chairman.*

AMERICAN MERCHANT MARINE

INSTITUTE, INC.,

New York, N.Y., August 1, 1966.

Minimum wage provisions, Panama Canal employees, S. 1986 and H.R. 13712.

HON. WAYNE MORSE,

Senate Labor and Public Welfare Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR MORSE: Today, on behalf of the membership of the American Merchant Marine Institute, Inc., we telegraph you urging the deletion from H.R. 13712 of the provision which would include Panama Canal employees under the minimum wage provisions of the Fair Labor Standards Act. The purpose of this letter is to amplify this urgent plea.

As we told you, our member companies operate nearly six million tons of American-flag shipping, composed of passenger liners, general cargo freighters, dry bulk carriers and tankers. Many of these ships trade regularly on routes requiring transit of the Panama Canal.

We have developed data which tells us that Panama nationals working for the Panama Canal Company in an unskilled capacity are paid an average of about 90c per hour, whereas wages for the same level of work in the Republic of Panama now run from 40c to 50c per hour. Thus, the Panama Canal Company is currently paying double the going wage of the Republic of Panama. To stipulate that this hourly rate must be increased to \$1.40 per hour, and eventually to \$1.60 per hour, represents a further 50% increase and puts the United States, as an employer, in the position of paying triple the going wage to citizens of Panama working in the Canal Zone.

Members of the American Merchant Marine Institute see no good reason why Panamanians working for the Panama Canal should be entitled to a minimum wage level which is based upon, or commensurate with, living standards in the United States.

However, aside from the moral and commonsense reasons for opposition we have reliably developed that if this amendment became law, in the first year of its effectiveness operating costs within the Canal Zone would be increased by \$9,300,000. This is of great concern to U.S. ship operators who believe that such an amendment must eventually lead to an increase in tolls per ton, and that the tolls and other costs of transit are sufficiently burdensome at the present time. They see in this amendment

an inevitable future increase in the cost of Panama Canal transit and they perceive at the same time certain delay and possible disruption in the existing orderly plans for the widening and deepening of certain areas of the Canal, which is much needed, especially in the face of the ever-increasing size of individual oceangoing ships, particularly dry bulk carriers and tankers.

Almost all of our member companies have their fleets based on the East or U.S. Gulf Coasts, and many of their vessels are chartered in support of the Viet Nam war. It is therefore a certainty that some of these ships are using the Panama Canal in the furtherance of the war effort. To the extent that these Canal transits are involved, additional cost to our Government is inevitable if the minimum wage amendment is allowed to remain. It occurs to us that to increase the cost of conducting this unfortunate war for social reasons is fundamentally a poor policy, but in a case such as this, where there is virtually no social or economic justification, increasing the costs of the war is wholly irresponsible.

The provisions of the amendment which we are opposing at least in our thinking, are totally uncalled for. Moreover, we would say that we totally deplore the effect of such an action on the now very efficient operation of the Panama Canal Company.

We ask your favorable consideration of our position, above outlined, and trust that the Committee will give it very thorough attention.

Sincerely,

RALPH E. CASEY, *President.*

MAY 24, 1966.

MR. THOMAS E. MORGAN,
International Union Field Staff Director,
AFSCME, AFL-CIO, Washington, D.C.

DEAR TOM: Attached is detailed information on the number of U.S. government employees in the Panama Canal Zone, earning less than \$1.25 per hour, who would be favorably affected by the inclusion of the Canal Zone under provisions of H.R. 13712.

The breakdown is by agency. Schedule No. 1 covers employees of the Army, Navy, Air Force and the Army-Air Force Exchange Service. Schedule No. 2, employees of the Panama Canal Company-Canal Zone Government. Sources of information are the personnel offices of the agencies listed.

Personnel Director Edward A. Doolan, Panama Canal Company-Canal Zone Government, told me on 17 May 1966 that the economic impact on his agency, the largest, would run into several million dollars a year. He said he is unable and unwilling to quote an exact figure of the initial cost at \$1.25 per hour, the second phase of \$1.40 and ultimately \$1.60, since it would be difficult to predict what curtailment, if any, of the work force or certain facilities would be necessary in the event sufficient money is not made available to absorb federal minimum pay rates.

However, he pointed out that so long as the United States exercises control of the operation, defense and maintenance of the Canal, there are services which must be retained, irrespective of the costs. He said, the agencies are constantly reviewing the work force and very few areas could be found today with "excess personnel."

He assured me he has not been asked and he does not expect the Canal Zone Governor and Commander, U.S. Southern Command, to publicly oppose our bid for FLSA in the Canal Zone. No doubt, he asserted, the government agencies would comply with the law, without question, once the amendment "and the Canal Zone" is approved by the Congress.

Mr. Doolan concurs that lifting the mini-

mum would do a lot to help the workers and strengthen the economy of Panama as a result of more money in the pockets of more people.

Mr. Doolan claims Canal tolls are constantly under review. He does not know if applying FLSA would force an increase in current tolls, but if so, it would be probably no more than 20%. Increasing tolls would take some time to accomplish.

Through the efforts of Locals 900 and 907, with the support of our International Union, we were able to revolutionize the so-called "Canal Zone pay rates" in grades NM-1 through NM-3 and M-1 through M-10, which were pegged to Panama area rates after the Remon-Eisenhower treaty of 1955 established the so-called Canal Zone Single Wage Plan in February, 1959.

These changes which came about in three phases, first in April, 1962, second in July, 1963 and third in July, 1964, went a long way toward helping manual (blue collar) workers in M-7 through M-10. The lower grades, M-1 through M-6, did not come out so well.

Consequently, we hold that the application of FLSA would contribute largely toward helping the people in M-1 through M-6, thereby correcting a situation which should never have existed in the first place.

Schedule No. 3 indicates the job-titles of positions included in M-1 through M-6. All these jobs in the United States are covered under provisions of the Act.

Locals 900 and 907 are leading the fight, supported by AFSCME, GEC and AFL-CIO, to have the Act, with its proposed 1966 amendments, extended to U.S. government workers in the Panama Canal Zone. The Act was applied to the Canal Zone in 1959 for workers engaged in interstate commerce and private contracts.

The Panamanian Foreign Minister, Fernando Elea, M., has restated to us that the Panamanian government fully endorses the application of FLSA in the Canal Zone. He said the Panamanian Ambassador in Washington, D.C. has been instructed to support the aspirations of Locals 900 and 907. He said as soon as the pressure of his myriad duties as Foreign Minister permits, he will send us an official note outlining his government's support. This note will be forwarded to you upon receipt.

We have made public statements in the Isthmian press in this regard. He said AFSCME and AFL-CIO officials are free to quote his position anytime, anywhere as far as FLSA for the Canal Zone is concerned.

The Canal Zone Central Labor Union-Metal Trades Council, AFL-CIO, has notified us of support. Copies of our letter to CLU-MTC and the reply are attached.

The Confederación de Trabajadores de la República de Panamá (Confederation of Workers of Panama) has notified us of support. Copies attached.

The Unión Nacional de Marineros de Panamá (National Union of Panamanian Seamen) has also indicated its support. Copies attached.

We wish to state, once again, that application of FLSA would benefit several thousand U.S. government workers, through higher wages; improve their standard of living; boost the economy of the Republic of Panama; further strengthen the middle class element in the terminal cities of the Republic; enhance the image of the United States in the area; demonstrate the great value of the powerful American labor movement in an area outside of the United States; and, in general, be a positive move in the right and proper direction.

We are cognizant of the fact that some adverse aspects are bound to accompany application of U.S. federal minimum wage rates in the Canal Zone.

However, we are equally convinced the positive impacts will far out-weigh the adverse aspects. Consequently, we are prepared to stand up and face the situation with assurance that the shots must be called and the price met in the interest of overall progress.

Accordingly, we most strongly urge the AFSCME, GEC and AFL-CIO to exercise every conceivable influence within their power to get the U.S. Senate to accept the amendment "and the Canal Zone" in the U.S. Fair Labor Standards' Amendments of 1966, something thousands of AFL-CIO members in this area so richly deserve.

As one more indication of support, our local unions are gathering signatures from thousands of workers who would receive FLSA minimum rates. We shall forward these signatures at a later date.

I am forwarding one copy of this letter, with attachments, to John A. McCart, Operations Director, Government Employees' Council and Kenneth A. Meiklejohn, Legislative Representative, AFL-CIO.

Best regards and all good wishes for success in this gallant struggle in behalf of our members.

Sincerely and fraternally,

WILLIAM H. SINCLAIR,

International Union General Representative.

SCHEDULE No. 1

U.S. Air Force, Panama Canal Zone

Employees currently earning less than \$1.25 per hour:

(a) Nonmanual (white collar) \$1.00 to \$1.15	4
(b) Manual (blue collar):	
\$0.82 to \$0.99	41
\$1.00 to \$1.15	50
\$1.16 to \$1.35	73
Total (manual)	164

U.S. Navy, Panama Canal Zone

(a) Nonmanual (white collar)	3
(b) Manual (blue collar)	178

U.S. Army, Panama Canal Zone

(a) Nonmanual (white collar)	32
(b) Manual (blue collar)	724

SCHEDULE No. 2

Army and Air Force Exchange service

Nonmanual (blue collar):	
\$1.08	48
\$1.13	6
\$1.18	18
\$1.23	12
\$1.24	5

Manual (blue collar):

\$0.80	1
\$0.82	2
\$0.85	10
\$0.88	3
\$0.89	18
\$0.93	60
\$0.97	34
\$0.98	9
\$1.02	22
\$1.04	1
\$1.05	2
\$1.06	24
\$1.07	1
\$1.08	1
\$1.09	1
\$1.12	4
\$1.13	1
\$1.17	3
\$1.22	13
\$1.24	1

Total (manual) 211

SCHEDULE No. 3.—Panama Canal Company/ Canal Zone Government

	Com- pany	Govern- ment	Total
Manual (blue collar):			
\$0.82	16	0	16
\$0.85	38	0	38
\$0.88	248	3	251
\$0.89	163	9	172
\$0.93	424	27	451
\$0.97	399	70	469
\$0.98	129	1	130
\$0.99	1	0	1
\$1.01	885	101	986
\$1.02	61	6	67
\$1.06	1,100	20	1,120
\$1.12	16	1	17
\$1.17	50	3	53
\$1.18	3	0	3
\$1.22	583	27	610
\$1.23	2	0	2
Grand total	4,118	268	4,386

Chapter C-3: Compensation—Panama Canal Company/Canal Zone Government—Canal Zone pay schedules, manual category, manual nonsupervisory wage schedules

[Money amounts effective July 3, 1966] ¹

Base pay level	Step	Canal Zone base rates ² (hourly)	Canal Zone wage base rates including tax factor ³	Canal Zone wage base rates including tax factor and 15 percent tropical differ- ential ⁴
M-1	1	\$0.84	\$0.84	\$0.97
	2	.88	.88	1.01
	3	.92	.92	1.06
M-2	1	.88	.88	1.01
	2	.92	.92	1.06
	3	.96	.96	1.10
M-3	1	.92	.92	1.06
	2	.96	.96	1.10
	3	1.00	1.00	1.15
M-4	1	.96	.96	1.10
	2	1.00	1.00	1.15
	3	1.04	1.04	1.20
M-5	1	1.01	1.01	1.16
	2	1.05	1.05	1.21
	3	1.09	1.09	1.25
M-6	1	1.16	1.16	1.33
	2	1.21	1.21	1.39
	3	1.26	1.26	1.45
M-7	1	1.36	1.37	1.48
	2	1.42	1.45	1.67
	3	1.48	1.52	1.75
M-8	1	1.61	1.67	1.92
	2	1.68	1.76	2.02
	3	1.75	1.84	2.12
M-9	1	1.96	2.08	2.39
	2	2.04	2.17	2.50
	3	2.12	2.27	2.61
M-10	1	2.37	2.56	2.94
	2	2.47	2.67	3.07
	3	2.57	2.78	3.20

			U.S. wage base rates including tax factor ⁵	U.S. wage base rates including tax factor and 15- percent tropical differential ⁶
M-11	1	2.91	\$3.19	\$3.67
	2	3.02	3.32	3.82
	3	3.13	3.45	3.97
M-12	1	2.99	3.28	3.77
	2	3.11	3.42	3.93
	3	3.23	3.56	4.09
M-13	1	3.09	3.39	3.90
	2	3.20	3.53	4.06
	3	3.32	3.67	4.22
M-14	1	3.16	3.48	4.00
	2	3.29	3.63	4.17
	3	3.42	3.78	4.35
M-15	1	3.25	3.58	4.12
	2	3.37	3.73	4.29
	3	3.51	3.88	4.46
M-16	1	3.34	3.69	4.24
	2	3.47	3.84	4.42
	3	3.61	3.99	4.59

¹ Rates effective July 3, 1966, authorized by Governor, May 18, 1966 (see memo from personnel director dated May 12, 1966).

² Payable to non-U.S. citizens (excludes tax factor and tropical differential).

³ Payable to U.S. citizens in nonsecurity positions who are ineligible for the addition of a tropical differential.

⁴ Payable to U.S. citizens in nonsecurity positions who are eligible for the addition of a 15 percent tropical differential pursuant to 5 CFR sec. 1204.12(a), as amended Oct. 10, 1964, 29 F.R. 14024.

⁵ Payable to U.S. citizens in all positions (security and nonsecurity) who are ineligible for the addition of a tropical differential.

⁶ Payable to U.S. citizens in all positions (security and nonsecurity) who are eligible for the addition of a 15 percent tropical differential pursuant to 5 CFR sec. 1204.12(a), as amended Oct. 10, 1964, 29 F.R. 14024.

EMBAJADA DE PANAMA, WASHINGTON

[Translation]

Considering: The Confederation of Workers of the Republic of Panama unite with the aspirations of the fellow workers of the Local 900 and 907, affiliated to the American Federation of Public Employees, AFL-CIO, that joins great numbers of Panamanian workers that give their services in the Canal Zone of Panama and that these aspirations of these Panamanian workers are just.

The Confederation of Workers of the Republic of Panama resolves:

1. To unite with the fellow workers of the Locals 900 and 907 in their minimum aspirations and we back them morally and materially in order that justice is done and we exhort the Legislative Chambers of the United States of America in order that they should approve the rates of the Federal Minimum Wage Law that would result in benefits for our companions that labor in the Panamanian territory known as the Panama Canal Zone.

Given in the city of Panama, on the 16th day of May of 1966.

LORENZO GUERRERO,

President.

RAMON RIVERA ROJAS,

Secretary.

[Translation]

Considering: The Maritime Union of Workers of the Republic of Panama unite with the aspirations of the fellow-workers of the Locals 900 and 907, affiliated with the American Federation of State, County and Municipal Employees, AFL-CIO, that joins great numbers of Panamanian workers who give their services in the Canal Zone of Panama and that these aspirations of these Panamanian workers are just.

The Maritime Union of Workers of the Republic of Panama resolves:

1) To unite with the fellow-workers of the Locals 900 and 907 in their minimum aspirations and we back them morally and materially in order that justice is done and we exhort the Legislative Chambers of the United States of America in order that they should approve the rates of the Federal Minimum Wage Law that would result in benefits for our companions that labor in the Panamanian territory known as the Panama Canal Zone.

Given in the city of Panama, on the 16th day of May 1966.

CARLOS F. ROBOLT B.,

Secretary General.

GERMAN MELENDEZ HERRERA,

Secretary of the Interior.

DEAR BROTHER SINCLAIR: I am happy to advise you that the Central Labor Union-Metal Trades Council, AFL-CIO, fully supports your bid to obtain benefits of the U.S. Fair Labor Standards' Act for all U.S. government workers in the Panama Canal Zone.

It has long been our tradition to assist your organization in all its efforts to improve wages and hours and working conditions for the people your organization have been representing down through the years.

Best wishes for a complete victory in this gallant legislative fight.

Sincerely and fraternally,

J. C. DYER,
President, Central Labor Union-Metal
Trades Council, AFL-CIO.

[Translation]

PANAMA, May 30, 1966.

MR. WILLIAM H. SINCLAIR,
International Representative, American Fed-
eration of State, County, and Municipal
Employees, Pacific Side Office, Balboa,
Canal Zone.

ESTEEMED MR. SINCLAIR: I am pleased to refer to your letter of March 6 of 1966 in which you inform me that the Congress of the United States of America is reviewing at the present a bill that, if it is approved, would extend for the first time the effects of the Minimum Wage Law of that country in favor of the employees of the United States Government; and you ask me, in relation with that possibility, what would be the position that the Government of the Republic of Panama would assume if some United States Government officials or congressmen argues that the results that this extension would have in benefit of the Panamanian employees in the service of the Government of the United States in the Canal Zone could be unfavorable to the Panamanian economy considering the differences in the level of the minimum salary prevailing in the territory of the Republic not subject to the jurisdictional limitations and that prevailing in the United States of America and that, as a result, perhaps the Panamanian Government would view with disfavor the application of such a measure.

I am of the opinion that an argument of this type would be totally unfounded. In effect, the different administrations that the Republic has had have always defended in favor of the Panamanian worker in the service of the Government of the United States of America in the Canal Zone and of the private enterprises that work for it, their right to earn, equal with the United States worker, the same salary for the same work. This position of the Government of Panama continues being invariable and inflexible.

FERNANDO ELETA A.,
Minister of Foreign Relations.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment of the committee amendment, as amended, and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

MR. YARBOROUGH. Mr. President, I yield myself 3 minutes on the bill.

The PRESIDING OFFICER. The Senator from Texas is recognized for 3 minutes.

MR. YARBOROUGH. Mr. President, the committee was firm in its belief that there should be no instance left where persons would be paid by the U.S. Government at a rate less than the minimum wage. With the Senate amendment to the House bill, I believe we have assured that every employee on any kind of Federal payroll will be protected by minimum wage coverage.

An important part of this coverage is found in the Senate Labor Committee amendment providing that witness fees in Federal court proceedings will conform to the minimum wage standards. There has been considerable complaint and discussion of the \$4 per day witness

fee set in the present law. The committee adopted an amendment offered by the Senator from Vermont [Mr. PROUTY] on behalf of the Senator from Illinois [Mr. DIRKSEN], to provide a minimum wage for Federal court witnesses, and I am very pleased that this provision is in the bill.

I ask unanimous consent to have printed in the RECORD an article published in the Washington Post of August 3, 1966, illustrating the need for the amendment.

There being no objection, the article was ordered to be printed in the Record, as follow:

LAWYER PROPOSES \$14 WITNESS FEES

(By Paul W. Valentine)

A report to the D.C. Crime Commission urges a major overhaul of the fee system for witnesses in Washington courts and recommends that the present fee be more than tripled to \$14 for each court appearance.

"Witnesses and victims of criminal acts most often come from the same low economic strata of the city as the defendants," says the report prepared by attorney David Epstein. "As a result the witnesses are persons who can least afford the economic hardship imposed by a losing a number of days' work."

The present \$4-per-appearance fee for local witnesses is unrealistic compensation for most employed persons who must suffer inconvenience and the loss of a day's pay to come to court in criminal prosecutions, the report says.

Often they are called to District or General Sessions Court and wait for several hours only to learn the case has been postponed or that their testimony is not yet needed.

WITNESSES DISCOURAGED

Epstein says his research indicates most businesses do not pay employees for days when they are absent because of court appearances. A former prosecutor in the U.S. Attorney's Office here, Epstein fears the loss of wages combined with the low fee system tends to discourage witnesses from participating in criminal cases.

"Workers on commissions or tips also lose much money each day," his report says. "For some workers to spend just a few hours in the morning at the courthouse is to lose the day's pay since jobs start early in the morning and employers do not want just a few hours' service at inappropriate hours. A waiter cannot make up the lunch hour. Missing work frequently incurs the wrath of the employer who may use this as a consideration in firing a witness-employee."

Though Epstein proposes a basic fee of \$14-per-appearance, upward or downward adjustments could be made according to individual cases and a Witness Compensation Board would be established to resolve contested cases.

For example, he feels no fee should be paid to witnesses when a case comes before a committing magistrate for initial hearing. "This would avoid any inclination to trump up charges to get a witness fee," he says.

Also, private investigators, security guards and night watchmen would be ineligible for fees, and the U.S. Attorney's Office would have discretion in reimbursing witnesses who are close relatives involved in husband-wife assault cases and other domestic matters.

"FAMILY BONANZA"

Epstein also would reduce the fee "where a bonanza to a particular family will result such as several children testifying as witnesses."

The Witness Compensation Board would iron out any disputes and also hear hardship cases in which witnesses ask for additional

reimbursement. The Board would have three members, one each appointed by the U.S. Attorney, the U.S. Marshal and the Legal Aid Agency.

The report also recommends that the trial calendars in District and General Sessions Courts be tightened up so that witnesses do not have to make unnecessary appearances. Often a witness is summoned into court only to be told the case has been postponed for a week or two.

Epstein would set up a standby calendar of "ready" cases for which last minute requests for postponement must be made only in writing. Any "spurious" requests or ones resulting from a "lack of diligence" would be investigated by the D.C. Bar Association's grievance committee, he suggests.

Epstein has also considered using transistorized "electronic pagers" for police officers and other witnesses who do not work near telephones. The witnesses would carry tiny electronic devices by which they could be "buzzed" from a central transmitter at the courthouse when a lawyer was ready to use them at trial.

Epstein says he is still awaiting a feasibility report by a national electronics firm on this proposal.

MR. YARBOROUGH. Mr. President, as amended in the Senate, the pending bill will bring 6,800,000 American workers under the minimum wage laws.

I believe the pending bill to be one of the most forward looking and progressive minimum wage laws to be enacted since the original act of 1938.

I believe that it will come to be known as one of the most progressive pieces of legislation enacted in the field of American labor.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

MR. LONG of Louisiana. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Tennessee [Mr. BASS], the Senator from Idaho [Mr. CHURCH], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. HARRIS], the Senator from Missouri [Mr. LONG], the Senator from Montana [Mr. METCALF], the Senator from Oklahoma [Mr. MONRONEY], and the Senator from Maine [Mr. MUSKIE], are absent on official business.

I also announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Illinois [Mr. DOUGLAS], the Senator from Indiana [Mr. HARTKE], the Senator from Arizona [Mr. HAYDEN], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Minnesota [Mr. MONDALE], the Senator from Oregon [Mrs. NEUBERGER], and the Senator from Georgia [Mr. RUSSELL], are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], the Senator from Maryland [Mr. BREWSTER], the Senator from Idaho [Mr. CHURCH], the Senator from Illinois [Mr. DOUGLAS], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. HARRIS], the Senator from Indiana [Mr. HARTKE], the Senator from Missouri [Mr. LONG], the Senator from Montana [Mr. METCALF], the Senator from Minnesota [Mr. MON-

DALE], the Senator from Oklahoma [Mr. MONRONEY], the Senator from Maine [Mr. MUSKIE], and the Senator from Oregon [Mrs. NEUBERGER] would each vote "yea."

On this vote, the Senator from New Hampshire [Mr. MCINTYRE] is paired with the Senator from Georgia [Mr. RUSSELL].

If present and voting, the Senator from New Hampshire would vote "yea," and the Senator from Georgia would vote "nay."

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from California [Mr. MURPHY] are absent because of illness.

The Senators from Colorado [Mr. ALLOTT and Mr. DOMINICK] are absent on official business.

The Senator from Idaho [Mr. JORDAN] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

The Senator from Hawaii [Mr. FONG], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from South Carolina [Mr. THURMOND], are detained on official business.

If present and voting, the Senator from Colorado [Mr. DOMINICK], the Senator from Utah [Mr. BENNETT], and the Senator from California [Mr. MURPHY] would each vote "yea."

On this vote, the Senator from Colorado [Mr. ALLOTT] is paired with the Senator from Idaho [Mr. JORDAN]. If present and voting, the Senator from Colorado would vote "yea," and the Senator from Idaho would vote "nay."

On this vote, the Senator from Hawaii [Mr. FONG] is paired with the Senator from Wyoming [Mr. SIMPSON]. If present and voting, the Senator from Hawaii would vote "yea," and the Senator from Wyoming would vote "nay."

On this vote, the Senator from Massachusetts [Mr. SALTONSTALL] is paired with the Senator from South Carolina [Mr. THURMOND]. If present and voting, the Senator from Massachusetts would vote "yea," and the Senator from South Carolina would vote "nay."

The result was announced—yeas 57, nays 17, as follows:

[No. 232 Leg.]

YEAS—57

Alken	Javits	Pastore
Anderson	Jordan, N.C.	Pearson
Bayh	Kennedy, Mass.	Pell
Bible	Kennedy, N.Y.	Prouty
Boggs	Kuchel	Proxmire
Burdick	Lausche	Randolph
Byrd, W. Va.	Long, La.	Ribicoff
Cannon	Magnuson	Russell, S.C.
Case	Mansfield	Scott
Clark	McCarthy	Smathers
Cooper	McGee	Smith
Dodd	McGovern	Sparkman
Ervin	Miller	Symington
Gore	Montoya	Talmadge
Griffin	Morse	Tydings
Hart	Morton	Williams, N.J.
Hill	Moss	Williams, Del.
Inouye	Mundt	Yarborough
Jackson	Nelson	Young, Ohio

NAYS—17

Byrd, Va.	Ellender	McClellan
Carlson	Fannin	Robertson
Cotton	Fulbright	Stennis
Curtis	Hickenlooper	Tower
Dirksen	Holland	Young, N. Dak.
Eastland	Hruska	

NOT VOTING—26

Allott	Gruening	Monroney
Bartlett	Harris	Murphy
Bass	Hartke	Muskie
Bennett	Hayden	Neuberger
Brewster	Jordan, Idaho	Russell, Ga.
Church	Long, Mo.	Saltonstall
Dominick	McIntyre	Simpson
Douglas	Metcalf	Thurmond
Fong	Mondale	

So the bill (H.R. 13712) was passed.

Mr. YARBOROUGH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS and Mr. MORSE moved to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent to have the bill printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized, in the engrossment of the Senate amendments, to make clerical and technical corrections.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YARBOROUGH. Mr. President, I move that the Senate insist on its amendments, ask for a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. YARBOROUGH, Mr. MORSE, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. KENNEDY of New York, Mr. WILLIAMS of New Jersey, Mr. JAVITS, Mr. PROUTY, Mr. FANNIN, and Mr. GRIFFIN conferees on the part of the Senate.

Mr. YARBOROUGH. Mr. President, I desire to take advantage of this opportunity to thank all those who have helped in bringing about final passage of this bill in the Senate. The legislation which now goes to the House conferees is designed to help the most disadvantaged of America's working men and women.

I want to point out that it was our departed colleague, the late Pat McNamara, of Michigan, who, as chairman of the subcommittee, held the hearings which accomplished the passage of this bill. He rendered outstanding service for years as chairman of that subcommittee. We cannot fill his shoes. We can only see his example and take pride in the work that he did. This bill is a monument to Pat McNamara.

I wish also to thank the chairman of the full committee, the Senator from Alabama, LISTER HILL, who cooperated with the staffing and scheduling of hearings, and the scheduling of conflicting committee hearings, in the most cooperative manner to help bring the bill to this point.

On the majority side of the committee, I pay particular tribute to the senior Senator from Oregon [Mr. MORSE], whose knowledge of the labor law is unsurpassed in this body, and who gave us the benefit of his experience as a for-

mer dean of the law school of Oregon University and his experience on the War Labor Board during World War II.

The Senator from West Virginia [Mr. RANDOLPH] was a tower of strength in helping us get the bill in shape.

I also wish to commend the Senator from Rhode Island [Mr. PELL] for his great help in working out provisions respecting handicapped workers.

I also wish to commend the Senator from Wisconsin [Mr. NELSON], the Senator from New York [Mr. KENNEDY], and the Senator from New Jersey [Mr. WILLIAMS], who were of great aid on the majority side of the Labor and Public Welfare Committee.

On the minority side, the senior Senator from New York [Mr. JAVITS] was most faithful in his attendance. I think he came there every day. If he missed 1 day, I do not recall it. He contributed greatly to the writing of the bill.

The Senator from Vermont [Mr. PROUTY] was very faithful in attendance and in offering creative thought to the development of the legislation.

I wish also to commend the Senator from Arizona [Mr. FANNIN] and the Senator from California [Mr. MURPHY]. Unfortunately, he is in the hospital with an illness. The Senator from Michigan [Mr. GRIFFIN], the newest member, was very faithful also, as was the Senator from Colorado [Mr. DOMINICK].

They were all faithful in helping us to have quorums. We never failed to have a quorum. We did not always agree on everything, but the members of the minority did not, because of their disagreement, prevent us from proceeding on the bill. They were not there only to form a passive quorum; they were active in the suggestions that were made.

When I took over as chairman of the subcommittee, succeeding the late Pat McNamara, I soon realized what an informed staff I had. I refer to John Bruff, counsel of the Labor Subcommittee. He has great knowledge in this whole field of legislation. We also had the aid of Jack Forsyth, chief counsel, and Stewart McClure, chief clerk, and of other staff members of the full Labor and Public Welfare Committee. The newest assistant counsel was Richard Yarborough.

Phil Yahner and Mrs. Clara Schloss, from the Department of Labor, gave us invaluable technical assistance.

All these persons helped in bringing about the bill in this form, which affects so many Americans.

Since I have been chairman of the Labor Subcommittee, I am in a position to pay my high regard for the counsel of that subcommittee, Mr. John Bruff. I have talked to other members of the majority and minority on the committee, who join me in the high esteem which I have come to hold him in which I have since I was picked to succeed Pat McNamara. When the chairman of the committee appointed me as chairman of the subcommittee to succeed Pat McNamara, I urged John Bruff to remain with the committee so he could help bring this complicated piece of legislation before us.

He wanted to leave, but we pointed out that with his great knowledge, we had no one to take his place. He consented to stay on until the minimum wage bill had been considered by the Senate. He did remain, and he performed magnificently. I am certain that all the members of the subcommittee, the full committee, and the Senate have benefited by his knowledge, his wisdom, and his advice, as anybody who has watched the proceedings in the Senate during the 3 days of debate on this bill could tell. Many Senators on both sides of the aisle have found his services most valuable.

I regret that he will soon be leaving us, because he has been nominated for an important political office in his native State. I congratulate him upon his nomination as Lieutenant Governor of his State, and I am joined, I am sure, by all those who have worked with him in the Committee on Labor and Public Welfare, and on this bill.

But it is not primarily that nomination for which we congratulate him tonight. It is for the fine, outstanding work he has done on the most important measure to help the disadvantaged in labor since 1938.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, the Senator from Texas has been very gracious in his praise. I join him in a word of memoriam for the late Senator Pat McNamara, who was a great friend of ours, and whose spirit and shadow were felt in the Chamber throughout the debate on this measure. I further join in commending the Senator from Alabama [Mr. HILL], the Senator from Oregon [Mr. MORSE], and all who helped so magnificently on the majority side, and to express my satisfaction for the cooperation of all my fellow Republicans, of whom the Senator from Texas has called the roll—Senator PROUTY, Senator FANNIN, Senator MURPHY, Senator GRIFFIN, Senator DOMINICK—all of whom gave their time and interest to this bill. It was a mutual labor.

With typical modesty, of course, Senator YARBOROUGH has not mentioned himself. I think he has performed splendidly. He has done what every Senator is very proud of—his homework—as was made most clearly evident by the degree of knowledge he has shown of the bill and its intricacies. The graciousness with which he has handled the debate has brought the bill to passage tonight, in my opinion. It could easily have gone on for another week or more, and torn the bill to bits, with heavy-footed handling. I think the Senator, during the weekend ahead, should take a moment to reflect proudly on his successful handling of this monumental piece of legislation. I assure him he will be joined by the minority conferees in bringing out of conference and to fruition a bill of which the Senate can be proud.

Mr. YARBOROUGH. I thank the Senator from New York. As Senators know, in the debate on this measure he refused to have his party designated as

the "opposition" to the bill. He himself supported it. He was an active worker for it. All through the debate, he has been one of the mainstays in behalf of the bill.

Mr. JAVITS. Mr. President, may I say one further word about John Bruff? I do not wish to be a party to campaign testimonials in his behalf, but I do wish to say, as a man and as a Senator, that he is a fine gentleman, a very fine workman, and an excellent lawyer. We all have the highest regard for him.

I am also deeply gratified that counsel for the majority was joined in working out the details of this measure by Frank Cummings, our counsel on the minority side, in whom I also take enormous pride as one of the most distinguished labor lawyers who has ever given public service the benefit of his talents.

Mr. YARBOROUGH. I say to the distinguished Senator from New York that we took advantage of his counsel, Frank Cummings, and went over and asked his opinion on various amendments also, with John Bruff and the others.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield to the distinguished Senator from Pennsylvania, who is a member of the full committee, though not of the subcommittee. But once the matter got to the full committee, he became a bulwark in its efforts on this bill to guide it through the committee and bring it to the floor.

Mr. CLARK. Mr. President, I wish to add my voice in praise of the Senator from Texas for his magnificent handling of the bill, and also to extend my congratulations to the Senator from New York [Mr. JAVITS] for the splendid efforts he made to whip the bill into shape, so that we could bring it to the floor of the Senate and obtain its passage in pretty much the same form we brought it out of the committee.

For myself, I think I was a pretty leaky bulwark. I am not a member of the subcommittee. Every now and then I showed up to make a quorum, but that is about the only contribution I made.

I do, however, wish to join my friend from Texas and also my friend from New York in their words of praise for the subcommittee counsel, John Bruff. He not only did a magnificent job in connection with this bill, but for years and years has been most active on all of the labor legislation which has come before the Committee on Labor and Public Welfare. For many years, for example, we tried to amend the Federal Coal Mine Safety Act, so as to extend its protection to small mines employing 14 or fewer miners. When I came to the Senate some 10 years ago, that was one of the first measures I sponsored and endeavored to have passed. It has taken us all of 10 years to get it done. I do not believe we ever would have accomplished it had it not been for the skillful legislative work of John Bruff, who was the staff man in charge of that bill. His work was of the very highest quality, and I wish personally to thank him for his always courteous cooperation and his conscientious service to me as a member of the committee. We shall miss him in the Com-

mittee on Labor and Public Welfare, but we shall look forward with keen anticipation to the fight he will be making in the next few months to get himself elected as Lieutenant Governor of the State of Michigan. That will be a hard and close race, bitterly fought, but I hope with the highest ethical standards. I know as far as Mr. Bruff is concerned, he will make that race as a perfect gentleman and as a most intelligent candidate, on behalf of our Democratic Party.

Mr. YARBOROUGH. I thank the distinguished Senator from Pennsylvania for his kind remarks about me, and I wish to associate myself with his remarks about the Senator from New York [Mr. JAVITS] and our counsel, John Bruff.

Mr. HART. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield to the distinguished Senator from Michigan.

Mr. HART. Mr. President, as one not on the committee, I ask that I be permitted to express the thanks of all of the non-members to the members, most particularly to Senator YARBOROUGH and Senator JAVITS. They have indeed demonstrated legislative skill of the very highest order, in an area which could have become intensely controversial.

I am grateful that a word was spoken in memory of Pat McNamara. Tonight his spirit must find great pleasure and satisfaction, as he sees this bill advance very close to the law books of this country. It was nice of Senator YARBOROUGH to remember him.

Lastly, and on another very personal note, I am grateful for the kind of words spoken of John Bruff. John Bruff is all of the things that the several Senators who were intimately acquainted with his work on the Committee on Labor and Public Welfare have stated; and he is more than that. He is a very fine and decent person, a gentleman. Not often, in the hurly-burly of politics, do we find such a person in America.

Just a week ago today, my party, the Democratic Party, selected him as our candidate for Lieutenant Governor of Michigan. He and we were chided—perhaps "kidded" is a better word—for having nominated a person who was not known. But if he is not known in Michigan, it is because he is more dedicated to his work than to self-promotion. He is, in truth, a man whom many people do not know, but whom everyone should know. We are all better for knowing him and knowing him well.

I hope that, in 2 months from now, he will be widely known in Michigan, and that when he returns on his next visit, we shall address him as Lieutenant Governor. Whatever the fates hold for him there, he leaves us with our very deepest appreciation and highest regard.

Mr. YARBOROUGH. Mr. President, I thank the Senator from Michigan. I associate myself with his remarks. Whatever fate holds for John Bruff, I feel that, from my intimate acquaintance with him, he will play his part very well, whatever fate holds for him in life. He is a man of whom we are all very proud. He is a man whom we all like and a man who has been of service to all of us and to his country.

Mr. MORSE. Mr. President, the Senate of the United States has just erected a great legislative monument to the memory of Pat McNamara, who sat beside me in the Senate for so long. It was Pat McNamara that really is responsible for getting this bill on its way to passage. He conducted the hearings. He dedicated himself to the men and women of this country that were not covered by minimum wage.

He used to say so frequently: "You just can't possibly justify denying them coverage."

I think this is the kind of tribute that Pat McNamara would truly appreciate because of the great dedicated interest of Senator McNamara to the objectives of the minimum wage bill.

I want to say that we could not have had one to carry on where he left off more effectively than the Senator from Texas [Mr. YARBOROUGH], as he took over the reins that were dropped from the hands of Senator McNamara and continued to drive through to the passage of this bill which occurred a few minutes ago in the Senate.

The Senator from Texas is an exceedingly modest person, but I can testify as to his great accomplishment in connection with his legislative leadership and respect to this bill.

May I also pay tribute to the legislative statesmanship of the senior Senator from New York [Mr. JAVITS], representing the Republican side of the aisle. He acted as the leader of the other party both in committee and on the floor of the Senate.

In my judgment, we would not have passed a bill as good as the bill we passed a few minutes ago, were it not for the senior Senator from New York.

This is not the first time I have spoken about the legislative statesmanship of the Senator from New York.

I worked closely with him on legislation, and I have always noted his great ability and legislative talent in serving not only the people of his State, but also the Senate of the United States.

Mr. President, other Senators joined the Senator from Texas [Mr. YARBOROUGH] in handling this bill. Their names have been mentioned, but I want to repeat them and associate myself with the remarks that have already been made with respect to them. I refer to the Senator from Vermont [Mr. PROUTY], the Senator from Colorado [Mr. DOMINICK], the Senator from California [Mr. MURPHY], the Senator from Arizona [Mr. FANNIN], and the Senator from Michigan [Mr. GRIFFIN].

Mr. President, on the Democratic side of the aisle, although the Senator from Pennsylvania [Mr. CLARK] seeks to diminish his contribution to the work done on this bill, when the bill did come before the full committee, he was very helpful to the Senator from Texas and to the committee in processing the bill through the committee.

I want to particularly comment on the work of the Senator from New Jersey [Mr. WILLIAMS]. The Senator from New Jersey and I, as the Senator from Texas knows, disagreed on some of the agricultural proposals within the committee.

However, the contribution that the Senator from New Jersey has made with regard to the whole problem of migrant workers in this country, and what can be done to improve their lot, has been a great contribution to the legislative history of the Senate.

In connection with this bill, we were able to bring forth a much better bill for the protection of the economic and humanitarian interests of the people covered by it because of the work of the Senator from New Jersey [Mr. WILLIAMS].

The man who now sits at my left, the Senator from West Virginia [Mr. RANDOLPH], worked shoulder to shoulder with the senior Senator from Texas throughout our hearings and throughout the markup of the bill and throughout its full consideration in the committee.

I say to the people of West Virginia: "You owe him much for the work he has done in connection with this bill."

Some commendations have been spoken of John Bruff, counsel for the committee. It is well that they have been spoken.

I want to say that, with the exception of our late colleague, Pat McNamara, I have probably had a closer working relationship with John Bruff, the counsel of the Subcommittee on Labor of the Committee on Labor and Public Welfare, than any Senator, and I can assure the Senate that in my long experience, both before and after my election to the Senate, I have never worked with a better lawyer or an abler staff assistant. John Bruff is tops.

I would remind Senators that in addition to doing the staff work on this minimum wage bill and on the airline strike legislation—and he was also my counsel on the Emergency Board appointed by the President—and the poverty bill last year, John also handled the complex and controversial bill dealing with metal and nonmetallic mine safety, passed earlier this year. He likewise performed the staff work on the coal mine safety bill.

He and the staff worked on railway labor bills over the years. He was the staff counsel who assisted us in all the railway labor legislation.

The Senator from Rhode Island [Mr. PELL] has spoken very highly of his very great legal ability in connection with railroad legislation.

He has thus had a very broad experience with the legislative process in the relatively short time he has been with us. I wish to thank him personally for the exceptionally fine cooperation and assistance he has given me. He has worked nights and weekends when public business demanded it. I am genuinely sorry that he is going to be with us no longer. We shall miss his cool-headed judgment and his sure-handed skill and his great legal ability.

I wish him great success in all of his future endeavors. His loss to our committee is Michigan's gain, as he goes back to his home State for further dedicated public service, as he proceeds to involve himself in a campaign for Lieutenant Governor of his State.

He had some very able colleagues on the staff committee. The general counsel of the committee, Jack Forsythe, has

great ability. I have spoken many times in connection with legislation he worked on in the past. He was a great source of strength to us as we sought to meet legal problems.

As the Senator from New York [Mr. JAVITS] and others have pointed out, Frank Cummings, the counsel for the minority, is an exceptionally able labor lawyer. I thank him and all on the committee for their contributions as we struggled along to try to bring forth the best bill we could.

Mr. President, I think there has just been passed in the Senate of the United States a piece of welfare legislation for the workers of the country that, once it becomes law, will accrue to the benefit of the employers of the country, too, for, may I say tonight that I think the same situation that was present when the Fair Labor Standards Act was passed in the first bill exists now. There were those then that thought the economic world had come to an end for the employers of the country that would come under the jurisdiction of the act. Of course, all their fears failed to materialize.

We have heard in the debate today by very sincere men predications of great losses to American industry and to the economy as a whole as a result of the passage of this bill.

Time, I am satisfied, will prove that they are wrong. Time will prove that the bill we have passed is going to accrue not only to the economic benefit of the workers who will be covered but also to the economic benefit of the country as a whole.

Mr. YARBOROUGH. Mr. President, will the Senator yield?

Mr. MORSE. I yield.

Mr. YARBOROUGH. Mr. President, I thank the distinguished Senator from Oregon for the kind remarks he has been making.

I should like to have the privilege of associating myself with him in his remarks concerning the Senator from New Jersey [Mr. WILLIAMS], John Bruff, and the others.

Mr. President, primarily I want to say that when we brought this bill to the Senate floor, under the agreement of the committee, all members of the Committee on Labor and Public Welfare had until Tuesday night to file their supplemental, additional, or minority views.

We in the committee worked for weeks and months, and we realize that these 3 days of debate—7 hours the first day, 8½ hours the second day, and longer today—could not have been brought about without the legislative skill of the majority leader. This 3 days of work is his monument; this is his skill; this is his doing.

As the so-called floor manager of the bill, I want to testify to how many times he suggested, "Now is the time to vote," suggesting what would happen on certain amendments. His legislative knowledge and his legislative skill have brought about the passage of this bill within 3 days of the time it was reported in the Senate.

I think this is one of the highest tributes on one of the most controversial bills, one of the most far-reaching labor reform bills we have had in this country

in many years. With this great legislative know-how, his touch was soft, his voice was not shrill and loud, but his skill permeated every hour of these proceedings. That is why we finish on Friday night of this week and not on Friday night of some week in the distant future.

I thank the majority leader for his kindness, his courtesies, and his firm suggestions throughout the 3 days of this debate.

Mr. MORSE. I wish to say to the Senator from Texas that what he has said is true about every piece of major legislation that passes through the Senate, whether it deals with minimum wages, education, natural resources, taxation, or other subjects. Without the leadership of Senator MANSFIELD as our majority leader, I believe we would be sorely bogged down time and time again. What were good bills as they came to the floor would end up as emasculated monstrosities, if he were not always assisting the Senator who sat in the chair of manager of the bill.

Mr. President, I am sorry that the Senator from Alabama [Mr. HILL] has left the Chamber, but I wish to say that he by all means should be included in my previous remarks, in appreciation for the great help that he once again performed, as chairman of the Committee on Labor and Public Welfare, making it possible for us to bring this bill to the floor of the Senate and to obtain its passage today.

Mr. RANDOLPH. Mr. President, I commend John Bruff for his splendid service on this bill, as for other contributions he has made toward passage of significant legislation underpinning a strong society.

I am reminded, Mr. President, of another aspect of Mr. Bruff's work for the Committee on Labor and Public Welfare. We remember the efforts of our late colleague, Pat McNamara, in behalf of our older citizens. He was a true pioneer in seeking legislative answers to the problems of the aged and aging.

One of his legacies was the Older Americans Act, which established for the first time an Administration on Aging in the Department of Health, Education, and Welfare. The bill creating the Older Americans Act of 1965 was handled by a Special Subcommittee in the Committee on Labor and Public Welfare.

I served on that subcommittee under the chairmanship of Pat McNamara and I had opportunity to observe the superlative staff work of John Bruff. For John, on top of his many other duties as counsel for labor, mine safety, and poverty matters, also was the counsel to the Subcommittee on Aging.

Likewise, Mr. President, our success this year in bringing small coal mines under the provisions of the Federal Coal Mine Safety Act was effectively assisted by our excellent legal counsel.

I join with my colleagues in saluting John Bruff, a diligent staff member and a fine lawyer. We regret his departure. The people of Michigan will be compensated for our loss.

Mr. PELL. Mr. President, may I join my fellow committee members in ex-

pressing my appreciation to John Bruff, our labor counsel.

As one who is not a lawyer, I have found my work on the Subcommittee on Labor greatly facilitated by being able to tap his great fund of knowledge and his splendid legal background.

I also would like to take this opportunity to congratulate Mr. Bruff on his nomination as Democratic candidate for Lieutenant Governor of Michigan. I wish him well in this race and look forward to the time when he will be presiding officer of his own State's senate. And I am sure he would display the same good sense and judgment there that he has here in the U.S. Senate.

Mr. NELSON. Mr. President, as a member of the Subcommittee on Labor, I have had occasion to work closely with the subcommittee counsel, John Bruff. He has been unfailingly diligent and competent. I wish particularly to call attention to his work on the metal and nonmetallic mine safety bill which was passed some months ago and is now awaiting a conference with the other body. I served as acting chairman for that bill, and can testify to the excellent legal abilities of John Bruff as counsel to the subcommittee. I am delighted that his talents have been recognized by the Michigan Democratic Party and I wish him all good luck.

Mr. KENNEDY of New York. Mr. President, I have served as a member of the Subcommittee on Labor of the Committee on Labor and Public Welfare since I became a Member of this body. The counsel of that subcommittee during this period of time has been Mr. John Bruff.

We have seen in this debate once again what a fine and able staff member he is. In addition to his duties as labor counsel, he also performed the staff work on the poverty bill last year. He helped us carry that bill through committee, floor debate, and conference with the House.

I have found him always knowledgeable, intelligent, and ready to give the full measure of his time and ability. He has been a tower of strength. We shall miss him. He goes to his campaign in Michigan with our best wishes.

Mr. WILLIAMS of New Jersey. Mr. President, I want to add my voice to those of my colleagues on the Labor Subcommittee in complimenting our counsel, John Bruff, on the first-rate job he has done for us, in regretting his departure for other endeavors and in congratulating the Democratic Party in Michigan on its choice for Lieutenant Governor.

Mr. PROXMIRE. Mr. President, it is with great pleasure that I join my colleagues in saluting John Bruff, the very able counsel for the Senate Labor Subcommittee.

The millions of Americans who will benefit from this historic minimum wage bill passed by the Senate today owe a debt of gratitude to the talent and energy of John Bruff.

A protege of our late, beloved colleague, Senator Pat McNamara, John Bruff has earned the high respect of Senators on both sides of the aisle for his fairness and dedication. John Bruff possesses a keen legislative mind and a

gentlemanly manner which have served not only the Committee on Labor and Public Welfare, but the entire Senate very well indeed.

I offer my congratulations to John Bruff for a job well done. I wish him well in his new venture as the Democratic candidate for Lieutenant Governor in Michigan. The people of Michigan are certainly fortunate in having a candidate for Lieutenant Governor with the ability, experience, and dedication of John Bruff.

Mr. MANSFIELD. Mr. President, the passage of the Minimum Wage Act of 1966 is a great achievement for the workingman of the country—it is also significant achievement and testimonial to the senior Senator from Texas [Mr. YARBOROUGH], the manager of this bill. He has demonstrated a remarkable grasp of his subject matter—an expert in this field without superior in this Chamber. This is his first major piece of legislation he has handled on the floor since he ascended to the chairmanship of the Labor Subcommittee of the Committee on Labor and Public Welfare. His predecessor Pat McNamara, would be proud today not only by the passage of this bill but by Senator YARBOROUGH's performance in managing this bill. The Senate has ample proof that it still has a chairman of this subcommittee with devotion and diligence that will serve it well: the workingman of the country, a chairman who not only has a feel for their problems but a desire to search for a just solution.

In like manner, I wish to commend the senior Senator from New York [Mr. JAVITS], the ranking member on the Labor Subcommittee as well as on the full Labor Committee for his able and articulate assistance in assisting in the managing of this bill.

To the Senators from New Jersey [Mr. WILLIAMS], from California [Mr. KUCHEL], from Florida [Mr. HOLLAND], from Louisiana [Mr. ELLENDER], from Vermont [Mr. AIKEN and Mr. PROUTY], from Ohio [Mr. LAUSCHEL], from Oregon [Mr. MORSE], from New Hampshire [Mr. CORTON] and all members of the Committee on Labor and Public Welfare for their participation and contributions during the consideration of this bill.

As usual, I want to extend my thanks to the distinguished minority leader [Mr. DIRKSEN] for his unfailing cooperation in accomplishing final passage of this bill today.

I hope that we shall be able to continue this momentum next week so that our Labor Day holiday will commence on Thursday next and will be well earned.

AUTHORITY TO RECEIVE MESSAGES AND PRINT VARIOUS ROUTINE MATTERS

Mr. MANSFIELD. Mr. President, I ask unanimous consent, since there was no period for the transaction of routine morning business today, that it be in order to lay before the Senate various communications and messages, and print in the Record various routine matters.

89TH CONGRESS
2^D SESSION

H. R. 13712

IN THE SENATE OF THE UNITED STATES

AUGUST 26 (legislative day, AUGUST 25), 1966

Ordered to be printed with the amendment of the Senate

AN ACT

To amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Fair Labor Standards
4 Amendments of 1966".

TITLE I—DEFINITIONS

TIPS

SEC. 101. (a) Section 3(m) of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new sentence: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 45 per centum of the applicable minimum wage rate, except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount."

(b) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"(t) 'Tipped employee' means any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips."

DEFINITION OF ENTERPRISE

SEC. 102. (a) Section 3(r) of such Act is amended by adding at the end thereof the following: "For purposes of

1 this subsection, the activities performed by any person or
2 persons—

3 “(1) in connection with the operation of a hos-
4 pital, an institution primarily engaged in the care of the
5 sick, the aged, the mentally ill or defective who reside
6 on the premises of such institution, a school for mentally
7 handicapped or gifted children, an elementary or sec-
8 ondary school, or an institution of higher education (re-
9 gardless of whether or not such hospital, institution or
10 school is public or private or operated for profit or not
11 for profit), or

12 “(2) in connection with the operation of a street,
13 suburban or interurban electric railway, or local trolley
14 or motorbus carrier, if the rates and services of such rail-
15 way or carrier are subject to regulation by a State or
16 local agency (regardless of whether or not such rail-
17 way or carrier is public or private or operated for profit
18 or not for profit),

19 shall be deemed to be activities performed for a business
20 purpose.”

21 (b) Section 3(d) of such Act is amended by inserting
22 after “of a State” the following: “(except with respect to
23 employees of a State, or a political subdivision thereof, em-
24 ployed (1) in a hospital, institution, or school referred to in

1 the last sentence of subsection ~~(r)~~ of this section, or ~~(2)~~ in
 2 the operation of a railway or carrier referred to in such
 3 sentence)".

4 ~~(e)~~ Section ~~3(s)~~ of such Act is amended to read as
 5 follows:

6 "~~(s)~~ 'Enterprise engaged in commerce or in the pro-
 7 duction of goods for commerce' means an enterprise which
 8 has employees engaged in commerce or in the production of
 9 goods for commerce, including employees handling, selling,
 10 or otherwise working on goods that have been moved in or
 11 produced for commerce by any person, and which—

12 "~~(1)~~ during the period February 1, 1967, through
 13 January 31, 1969, is an enterprise whose annual gross
 14 volume of sales made or business done is not less than
 15 \$500,000 (exclusive of excise taxes at the retail level
 16 which are separately stated) or is a gasoline service
 17 establishment whose annual gross volume of sales is not
 18 less than \$250,000 (exclusive of excise taxes at the
 19 retail level which are separately stated), and beginning
 20 February 1, 1969, is an enterprise whose annual gross
 21 volume of sales made or business done is not less than
 22 \$250,000 (exclusive of excise taxes at the retail level
 23 which are separately stated);

24 "~~(2)~~ is engaged in laundering, cleaning, or re-
 25 pairing clothing or fabrics;

1 “(3) is engaged in the business of construction
2 or reconstruction, or both; or

3 “(4) is engaged in the operation of a hospital, an
4 institution primarily engaged in the care of the sick,
5 the aged, the mentally ill or defective who reside on the
6 premises of such institution, a school for mentally handi-
7 capped or gifted children, an elementary or secondary
8 school, or an institution of higher education (regardless
9 of whether or not such hospital, institution, or school is
10 public or private or operated for profit or not for profit):

11 Any establishment which has as its only regular employees
12 the owner thereof or the parent, spouse, child, or other mem-
13 ber of the immediate family of such owner shall not be con-
14 sidered to be an enterprise engaged in commerce or in the
15 production of goods for commerce or a part of such an en-
16 terprise, and the sales of such establishment shall not be
17 included for the purpose of determining the annual gross
18 volume of sales of any enterprise for the purpose of this
19 subsection.”

20 (d) Section 3 of such Act is amended by adding after
21 subsection (u) (added by section 103(b) of this Act) the
22 following new subsections:

23 “(v) ‘Elementary school’ means a day or residential
24 school which provides elementary education, as determined
25 under State law.

1 ~~“(w)~~ ‘Secondary school’ means a day or residential
 2 school which provides secondary education, as determined
 3 under State law.

4 AGRICULTURAL EMPLOYEES

5 SEC. 103. ~~(a)~~ Section 3(e) of such Act is amended
 6 to read as follows:

7 ~~“(e)~~ ‘Employee’ includes any individual employed by
 8 an employer, except that such term shall not, for the pur-
 9 poses of section 3(u) include—

10 ~~“(1)~~ any individual employed by an employer en-
 11 gaged in agriculture if such individual is the parent,
 12 spouse, child, or other member of the employer’s imme-
 13 diate family, or

14 ~~“(2)~~ any individual who is employed by an em-
 15 ployer engaged in agriculture if such individual ~~(A)~~ is
 16 employed as a hand harvest laborer and is paid on a
 17 piece rate basis in an operation which has been, and is
 18 customarily and generally recognized as having been,
 19 paid on a piece rate basis in the region of employment,
 20 ~~(B)~~ commutes daily from his permanent residence to the
 21 farm on which he is so employed, and ~~(C)~~ has been
 22 employed in agriculture less than thirteen weeks during
 23 the preceding calendar year.”

24 ~~(b)~~ Section 3 of such Act is further amended by add-

1 ing after subsection ~~(t)~~ ~~(added by section 101(b) of this~~
 2 ~~Act)~~ the following new subsection

3 “~~(u)~~ ‘Man-day’ means any day during any portion of
 4 which an employee performs any agricultural labor.”

5 TITLE II—REVISION OF EXEMPTIONS

6 HOTEL, RESTAURANT, AND RECREATIONAL ESTABLISH-
 7 MENTS; HOSPITALS AND RELATED INSTITUTIONS

8 SEC. 201. ~~(a)~~ Section 13~~(a)~~~~(2)~~ of such Act is
 9 amended by striking out everything preceeding “A ‘retail or
 10 service establishment’” and inserting in lieu thereof the
 11 following:

12 “~~(2)~~ any employee employed by any retail or
 13 service establishment ~~(except an establishment or em-~~
 14 ~~ployee engaged in laundering, cleaning, or repairing~~
 15 ~~clothing or fabries or an establishment engaged in the~~
 16 ~~operation of a hospital, institution, or school described~~
 17 ~~in section 3(s)(4))~~, if more than 60 per centum of
 18 such establishment’s annual dollar volume of sales of
 19 goods or services is made within the State in which the
 20 establishment is located, and such establishment is not in
 21 an enterprise described in section 3~~(s)~~ or such establish-
 22 ment has an annual dollar volume of sales which is less
 23 than \$250,000 ~~(exclusive of excise taxes at the retail~~
 24 ~~level which are separately stated).~~”

1 ~~(b)(1)~~ Section 13~~(b)~~ of such Act is amended by in-
 2 serting after paragraph ~~(7)~~ the following new paragraph
 3 in lieu of the paragraph repealed by section 211 of this
 4 Act:

5 ~~“(8)~~ any employee employed by an establishment
 6 which is a hotel, motel, or restaurant; or”.

7 ~~(2)~~ Section 13~~(a)~~ of such Act is amended by inserting
 8 after paragraph ~~(2)~~ the following new paragraph in lieu of
 9 the paragraph repealed by section 202 of this Act:

10 ~~“(3)~~ any employee employed by an establish-
 11 ment which is an amusement or recreational establish-
 12 ment, if ~~(A)~~ it does not operate for more than seven
 13 months in any calendar year, or ~~(B)~~ during the preced-
 14 ing calendar year, its average receipts for any six months
 15 of such year were not more than $33\frac{1}{3}$ per centum of its
 16 average receipts for the other six months of such year;
 17 or”.

18 LAUNDRY AND CLEANING ESTABLISHMENTS

19 SEC. 202. Section 13~~(a)~~~~(3)~~ of such Act is repealed.

20 AGRICULTURAL EMPLOYEES

21 SEC. 203. ~~(a)~~ Section 13~~(a)~~~~(6)~~ of such Act is amended
 22 to read as follows:

23 ~~“(6)~~ any employee employed in agriculture ~~(A)~~ if
 24 such employee is employed by an employer who did not,
 25 during any calendar quarter during the preceding

1 calendar year, use more than five hundred man-days
 2 of agricultural labor, ~~(B)~~ if such employee is the parent,
 3 spouse, child, or other member of his employer's imme-
 4 diate family; or ~~(C)~~ if such employee ~~(i)~~ is employed
 5 as a hand harvest laborer and is paid on a piece rate
 6 basis in an operation which has been, and is customarily
 7 and generally recognized as having been, paid on a piece
 8 rate basis in the region of employment, ~~(ii)~~ commutes
 9 daily from his permanent residence to the farm on which
 10 he is so employed; and ~~(iii)~~ has been employed in agri-
 11 culture less than thirteen weeks during the preceding
 12 calendar year; or ~~(D)~~ if such employee's wage rate is
 13 established by the Secretary of Agriculture under sec-
 14 tion 301(c)(1) of the Sugar Act of 1948; or".

15 ~~(b)~~ Section 13(a)(16) of such Act (agricultural em-
 16 ployees employed in livestock auctions) is repealed.

17 ~~(c)~~ Section 13(b) of such Act is amended—

18 ~~(A)~~ by striking out the period at the end of para-
 19 graph ~~(11)~~ and inserting in lieu thereof “; or”, and

20 ~~(B)~~ by adding at the end of paragraph ~~(11)~~ the
 21 following new paragraphs:

22 “~~(12)~~ any employee employed in agriculture or in
 23 connection with the operation or maintenance of ditches,
 24 canals, reservoirs, or waterways, not owned or operated

1 for profit, or operated on a sharecrop basis, and which
 2 are used exclusively for supply and storing of water for
 3 agricultural purposes; or

4 “~~(13)~~ any employee with respect to his employ-
 5 ment in agriculture by a farmer, notwithstanding other
 6 employment of such employee in connection with live-
 7 stock auction operations in which such farmer is engaged
 8 as an adjunct to the raising of livestock, either on his
 9 own account or in conjunction with other farmers, if
 10 such employee ~~(A)~~ is primarily employed during his
 11 workweek in agriculture by such farmer, and ~~(B)~~ is
 12 paid for his employment in connection with such live-
 13 stock auction operations at a wage rate not less than
 14 that prescribed by section ~~6(a)(1)~~; or”.

15 AGRICULTURAL PROCESSING EMPLOYEES

16 SEC. 204. ~~(a)~~ Sections ~~13(a)(10)~~ (employees en-
 17 gaged in handling and processing of agricultural, horticultural,
 18 and dairy products); ~~13(a)(17)~~ (country elevator
 19 employees); ~~13(a)(18)~~ (cotton ginning employees); and
 20 ~~13(a)(22)~~ (fruit and vegetable transportation employees)
 21 of such Act are repealed.

22 ~~(b)~~ Section ~~13(b)~~ of such Act is amended by adding
 23 after paragraph ~~(13)~~ (added by section 203(c) of this Act)
 24 the following new paragraphs:

25 “~~(14)~~ any employee employed within the area of

1 production (as defined by the Secretary) by an estab-
2 lishment commonly recognized as a country elevator,
3 including such an establishment which sells products and
4 services used in the operation of a farm, if no more than
5 five employees are employed in the establishment in
6 such operations; or

7 “(15) any employee engaged in ginning of cotton
8 for market, in any place of employment located in a
9 county where cotton is grown in commercial quan-
10 tities; or

11 “(16) any employee engaged (A) in the transpor-
12 tation and preparation for transportation of fruits or
13 vegetables, whether or not performed by the farmer,
14 from the farm to a place of first processing or first mar-
15 keting within the same State, or (B) in transportation,
16 whether or not performed by the farmer, between the
17 farm and any point within the same State of persons
18 employed or to be employed in the harvesting of fruits
19 or vegetables; or”.

20 (c) Subsection (c) of section 7 of such Act is amended
21 to read as follows:

22 “(c) For a period or periods of not more than fourteen
23 workweeks in the aggregate in any calendar year, any em-
24 ployer may employ any employee for a workweek in excess

1 of that specified in subsection (a) without paying the com-
 2 pensation for overtime employment prescribed in such sub-
 3 section if such employee (1) is employed by such employer
 4 in an industry (other than an industry described in subsec-
 5 tion (d)) found by the Secretary to be of a seasonal nature,
 6 and (2) receives compensation for employment by such
 7 employer in excess of ten hours in any workday, or for
 8 employment by such employer in excess of forty-eight hours
 9 in any workweek, as the case may be, at a rate not less
 10 than one and one-half times the regular rate at which he
 11 is employed.

12 “(d) For a period or periods of not more than four-
 13 teen workweeks in the aggregate in any calendar year,
 14 any employer may employ any employee for a workweek
 15 in excess of that specified in subsection (a) without paying
 16 the compensation for overtime employment prescribed in
 17 such subsection, if such employee—

18 “(1) is employed by such employer in an enter-
 19 prise which is in an industry found by the Secretary—

20 “(A) to be characterized by marked annually
 21 recurring seasonal peaks of operation at the places
 22 of first marketing or first processing of agricul-
 23 tural or horticultural commodities from farms if
 24 such industry is engaged in the handling, packing,
 25 preparing, storing, first processing, or canning of

any perishable agricultural or horticultural commodities in their raw or natural state, or

~~“(B) to be of a seasonal nature and engaged in the handling, packing, storing, preparing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, and~~

~~“(2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.”~~

~~(d) (1) Subsections (d), (e), (f), (g), and (h) of section 7 of such Act are redesignated as subsections (e), (f), (g), (h), and (i), respectively.~~

~~(2) Subsections (g) and (h) of such section 7 (as so redesignated by paragraph (1) of this subsection) are each amended by striking out “subsection (d)” and inserting in lieu thereof “subsection (e)”.~~

SMALL NEWSPAPERS

SEC. 205. Section 13(a)(8) of such Act is amended by striking out “where printed and published” and inserting in lieu thereof “where published”.

TRANSPORTATION COMPANIES

SEC. 206. ~~(a)~~ Section 13(a)(9) of such Act is repealed.

~~(b) (1)~~ Section 13(a)(12) of such Act is repealed.

~~(2)~~ Section 13(b) of such Act is amended by adding after paragraph ~~(16)~~ ~~(added of section 204(b) of this Act)~~ the following new paragraph:

“(17) any driver employed by an employer engaged in the business of operating taxicabs; or”.

~~(c)~~ Section 13(b)(7) of such Act is amended to read as follows:

“(7) any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency; or”.

MOTION PICTURE THEATER EMPLOYEES

SEC. 207. Section 13(a) of such Act is amended by inserting after paragraph ~~(8)~~ the following new paragraph in lieu of the paragraph repealed by section 206(a) of this Act:

“(9) any employee employed by an establishment which is a motion picture theater; or”.

LOGGING CREWS

SEC. 208. Section 13(a)-(15) of such Act is amended by striking out "twelve" and inserting in lieu thereof "eight".

AUTOMOBILE, AIRCRAFT, AND FARM IMPLEMENT SALES

ESTABLISHMENTS

SEC. 209. (a) Section 13(a)-(19) of such Act is repealed.

(b) Section 13(b) of such Act is amended by inserting after paragraph (9) the following new paragraph in lieu of the paragraph repealed by section 212 of this Act:

"(10) any salesman, mechanic, or partsman employed by an establishment which is primarily engaged in the business of selling automobiles, trailers, trucks, or farm implements to the ultimate purchaser, and any salesman, mechanic, or flight personnel employed by a non-manufacturing establishment which is primarily engaged in selling aircraft; or"

FOOD SERVICE EMPLOYEES

SEC. 210. (a) Section 13(a)-(20) of such Act is repealed.

(b) Section 13(b) of such Act is amended by adding after paragraph (17) (added by section 206(b)-(2) of this Act) the following new paragraph:

"(18) any employee of a retail or service estab-

1 lishment who is employed primarily in connection with
 2 the preparation or offering of food or beverages for
 3 human consumption either on the premises, or by such
 4 services as catering, banquet, box lunch, or curb or
 5 counter service, to the public, to employees, or to mem-
 6 bers or guests of members of clubs."

7 GASOLINE SERVICE STATIONS

8 SEC. 211. Section 13(b)(8) of such Act is repealed.

9 PETROLEUM DISTRIBUTION EMPLOYEES

10 SEC. 212. (a) Section 13(b)(10) of such Act is re-
 11 pealed.

12 (b) Section 7(b)(3) of such Act is amended to read
 13 as follows:

14 “(3) by an independently owned and controlled
 15 local enterprise (including an enterprise with more than
 16 one bulk storage establishment) engaged in the whole-
 17 sale or bulk distribution of petroleum products if—

18 “(A) the annual gross volume of sales of such
 19 enterprise is less than \$1,000,000 exclusive of excise
 20 taxes;

21 “(B) more than 75 per centum of such enter-
 22 prise’s annual dollar volume of sales is made within
 23 the State in which such enterprise is located, and

24 “(C) not more than 25 per centum of the

annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale, and such employee receives compensation for employment in excess of forty hours in any workweek at a rate not less than one and one-half times the minimum wage rate applicable to him under section 6,"

ENIWETOK AND KWAJALEIN ATOLLS AND JOHNSTON
ISLAND

SEC. 213. Section 13(f) of such Act is amended by striking out "and the Canal Zone" and inserting in lieu thereof "Eniwetok Atoll; Kwajalein Atoll; Johnston Island; and the Canal Zone".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 214. (a) Section 3(n) of such Act is amended by striking out "; except as used in subsection (s)(1),".

(b) Section 13(a) of such Act is amended—

(1) by redesignating paragraphs (11), (13), (14), (15), and (21) as paragraphs (10), (11), (12), (13), and (14), respectively; and

(2) by striking out "; or" at the end of paragraph (14) (as so redesignated in this subsection) and inserting in lieu thereof a period.

1 ~~(c)~~ Paragraph ~~(7)~~ of section 13~~(a)~~ of such Act is
 2 amended by striking out "or order" and inserting in lieu
 3 thereof "~~, order, or certificate~~".

4 TITLE III—INCREASE IN MINIMUM WAGE
 5 PRESENTLY COVERED EMPLOYEES

6 SEC. 301. ~~(a)~~ Section 6~~(a)~~ of such Act is amended by
 7 amending that portion of the section preceding paragraph
 8 ~~(2)~~ to read as follows:

9 "~~(a)~~ Every employer shall pay to each of his em-
 10 ployees who in any workweek is engaged in commerce or in
 11 the production of goods for commerce, or is employed in an
 12 enterprise engaged in commerce or in the production of
 13 goods for commerce, wages at the following rates:

14 "~~(1)~~ not less than \$1.40 an hour during the first
 15 two years from the effective date of the Fair Labor
 16 Standards Amendments of 1966 and not less than \$1.60
 17 an hour thereafter, except as otherwise provided in this
 18 section;"

19 ~~(b)~~ Such section is amended by striking out the period
 20 at the end of paragraph ~~(3)~~ and inserting a semicolon,
 21 and by adding the following new paragraph:

22 "~~(4)~~ if such employee is employed as a seaman
 23 on an American vessel, not less than the rate which will
 24 provide to the employee, for the period covered by the
 25 wage payment, wages equal to compensation at the

hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement); or”.

AGRICULTURAL EMPLOYEES

SEC. 302. Section 6(a) of such Act is amended by adding after paragraph (4) (added by section 301(b) of this Act) the following new paragraph:

“(5) if such employee is employed in agriculture, not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during the second year from such date, and not less than \$1.30 an hour thereafter.”

NEWLY COVERED EMPLOYEES

SEC. 303. Section 6(b) of such Act is amended to read as follows:

“(b) Every employer shall pay to each of his employees (other than an employee to whom subsection (a)(5) applies) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of

1 goods for commerce, and who in such workweek is brought
2 within the purview of this section by the amendments made
3 to this Act by the Fair Labor Standards Amendments of
4 1966, wages at the following rates:

5 “(1) not less than \$1 an hour during the first
6 year from the effective date of such amendments,

7 “(2) not less than \$1.15 an hour during the second
8 year from such date,

9 “(3) not less than \$1.30 an hour during the third
10 year from such date,

11 “(4) not less than \$1.45 an hour during the fourth
12 year from such date, and

13 “(5) not less than \$1.60 an hour thereafter.”

14 EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

15 SEC. 304. Section 6(c) of such Act is amended to read
16 as follows:

17 “(c)(1) The rate or rates provided by subsections (a)
18 and (b) of this section shall be superseded in the case of
19 any employee in Puerto Rico or the Virgin Islands only for
20 so long as and insofar as such employee is covered by a wage
21 order heretofore or hereafter issued by the Secretary pur-
22 suant to the recommendations of a special industry committee
23 appointed pursuant to section 5.

24 “(2) In the case of any such employee who is covered
25 by such a wage order and to whom the rate or rates pre-

1 scribed by subsection (a) would otherwise apply, the fol-
2 lowing rates shall apply:

3 “(A) The rate or rates applicable under the most
4 recent wage order issued by the Secretary prior to the
5 effective date of the Fair Labor Standards Amendments
6 of 1966, increased by 12 per centum, unless such rate
7 or rates are superseded by the rate or rates prescribed
8 in a wage order issued by the Secretary pursuant to the
9 recommendations of a review committee appointed under
10 paragraph (C). Such rate or rates shall become effec-
11 tive sixty days after the effective date of the Fair Labor
12 Standards Amendments of 1966 or one year from the
13 effective date of the most recent wage order applicable
14 to such employee theretofore issued by the Secretary
15 pursuant to the recommendations of a special industry
16 committee appointed under section 5, whichever is later.

17 “(B) Beginning one year after the applicable effec-
18 tive date under paragraph (A), not less than the rate
19 or rates prescribed by paragraph (A), increased by
20 an amount equal to 16 per centum of the rate or rates
21 applicable under the most recent wage order issued by
22 the Secretary prior to the effective date of the Fair Labor
23 Standards Amendments of 1966, unless such rate or
24 rates are superseded by the rate or rates prescribed in
25 a wage order issued by the Secretary pursuant to the

1 recommendations of a review committee appointed under
2 paragraph (C).

3 “(C) Any employer, or group of employers, em-
4 ploying a majority of the employees in an industry in
5 Puerto Rico or the Virgin Islands, may apply to the
6 Secretary in writing for the appointment of a review
7 committee to recommend the minimum rate or rates
8 to be paid such employees in lieu of the rate or rates
9 provided by paragraph (A) or (B). Any such appli-
10 cation with respect to any rate or rates provided for
11 under paragraph (A) shall be filed within sixty days
12 following the enactment of the Fair Labor Standards
13 Amendments of 1966 and any such application with
14 respect to any rate or rates provided for under para-
15 graph (B) shall be filed not more than one hundred
16 and twenty days and not less than sixty days prior to
17 the effective date of the applicable rate or rates under
18 paragraph (B). The Secretary shall promptly con-
19 sider such application and may appoint a review com-
20 mittee if he has reasonable cause to believe, on the basis
21 of financial and other information contained in the ap-
22 plication, that compliance with any applicable rate or
23 rates prescribed by paragraph (A) or (B) will sub-
24 stantially curtail employment in such industry. The
25 Secretary's decision upon any such application shall

1 be final. Any wage order issued pursuant to the recom-
2 mendations of a review committee appointed under this
3 paragraph shall take effect on the applicable effective
4 date provided in paragraph (A) or (B).

5 “(D) In the event a wage order has not been issued
6 pursuant to the recommendation of a review committee
7 prior to the applicable effective date under paragraph
8 (A) or (B), the applicable percentage increase pro-
9 vided by any such paragraph shall take effect on the
10 effective date prescribed therein, except with respect to
11 the employees of an employer who filed an application
12 under paragraph (C) and who files with the Secretary
13 an undertaking with a surety or sureties satisfactory to
14 the Secretary for payment to his employees of an amount
15 sufficient to compensate such employees for the dif-
16 ference between the wages they actually receive and the
17 wages to which they are entitled under this subsection.
18 The Secretary shall be empowered to enforce such under-
19 taking and any sums recovered by him shall be held in
20 a special deposit account and shall be paid, on order of
21 the Secretary, directly to the employee or employees
22 affected. Any such sum not paid to an employee be-
23 cause of inability to do so within a period of three years
24 shall be covered into the Treasury of the United States
25 as miscellaneous receipts.

1 “(3) In the case of any such employee to whom sub-
2 section (a)-(5) or subsection (b) would otherwise apply,
3 the Secretary shall within sixty days after the effective date
4 of the Fair Labor Standards Amendments of 1966 appoint a
5 special industry committee in accordance with section 5 to
6 recommend the highest minimum wage rate or rates in ac-
7 cordance with the standards prescribed by section 8, but not
8 in excess of the applicable rate provided by subsection (a)-
9 (5) or subsection (b), to be applicable to such employee in
10 lieu of the rate or rates prescribed by subsection (a)-(5) or
11 subsection (b), as the case may be. The rate or rates recom-
12 mended by the special industry committee shall be effective
13 with respect to such employee upon the effective date of the
14 wage order issued pursuant to such recommendation but not
15 before sixty days after the effective date of the Fair Labor
16 Standards Amendments of 1966.

17 “(4) The provisions of section 5 and section 8, relating
18 to special industry committees, shall be applicable to review
19 committees appointed under this subsection. The appoint-
20 ment of a review committee shall be in addition to and not
21 in lieu of any special industry committee required to be
22 appointed pursuant to the provisions of subsection (a) of
23 section 8, except that no special industry committee shall
24 hold any hearing within one year after a minimum wage
25 rate or rates for such industry shall have been recommended

1 to the Secretary by a review committee to be paid in lieu
 2 of the rate or rates provided for under paragraph ~~(A)~~ or
 3 ~~(B)~~. The minimum wage rate or rates prescribed by this
 4 subsection shall be in effect only for so long as and insofar
 5 as such minimum wage rate or rates have not been super-
 6 seded by a wage order fixing a higher minimum wage rate
 7 or rates ~~(but not in excess of the applicable rate prescribed~~
 8 ~~in subsection (a) or subsection (b))~~ hereafter issued by the
 9 Secretary pursuant to the recommendation of a special in-
 10 dustry committee.”

11 CONTRACT SERVICES TO FEDERAL GOVERNMENT

12 SEC. 305. Section 6 of such Act is amended by adding
 13 at the end thereof the following new subsection:

14 “~~(c) (1)~~ Notwithstanding the provisions of section 13
 15 of this Act ~~(except subsections (a) (1) and (f) thereof)~~,
 16 every employer providing any contract services ~~(other than~~
 17 ~~laundrying or related cleaning services)~~ under a contract
 18 with the United States or any subcontract thereunder shall
 19 pay to each of his employees whose rate of pay is not gov-
 20 erned by the Service Contract Act of 1965 ~~(Public Law~~
 21 ~~89-286)~~ or to whom subsection ~~(a) (1)~~ of this section is
 22 not applicable, wages at rates not less than the rates pro-
 23 vided for in subsection ~~(b)~~ of this section.

24 “~~(2)~~ Notwithstanding the provisions of section 13 of

1 this Act ~~(except subsections (a)(1) and (f) thereof) and~~
 2 the provisions of the Service Contract Act of 1965 ~~(Public~~
 3 Law 89-286), every employer in an establishment provid-
 4 ing laundering or related cleaning services to the United
 5 States under a contract with the United States or any sub-
 6 contract thereunder shall pay to each of his employees in
 7 such establishment wages at rates not less than those pre-
 8 scribed in subsection ~~(b)~~, except that if more than 50 per
 9 centum of the gross annual dollar volume of sales made or
 10 business done by such establishment is derived from provid-
 11 ing such laundering or related cleaning services under any
 12 such contracts or subcontracts, such employer shall pay to
 13 each of his employees in such establishment wages at rates
 14 not less than those prescribed in subsection ~~(a)(1)~~ of this
 15 section.”

16 FEDERAL EMPLOYEES

17 SEC. 306. Section 18 of such Act is amended by insert-
 18 ing “(a)” immediately after “SEC. 18.” and by adding at
 19 the end thereof the following new subsection:

20 “(b) Notwithstanding any other provision of this Act
 21 or any other law, any employee—

22 “(1) described in paragraph (7) of section 202
 23 of the Classification Act of 1949 (5 U.S.C. 1082(7))
 24 whose compensation is required to be fixed and adjusted
 25 from time to time as nearly as is consistent with the

1 public interest in accordance with prevailing rates, or
2 “(2) employed in a nonappropriated fund instru-
3 mentality under the jurisdiction of the Armed Forces,
4 who performed services during the workweek in a work
5 place within the District of Columbia or a State of the United
6 States, shall have his basic compensation fixed or adjusted
7 at a wage rate which is not less than the appropriate wage
8 rate provided for in section 6(a)(1) of this Act and shall
9 have his overtime compensation set at an hourly rate not
10 less than the overtime rate provided for in section 7(a) of
11 this Act.”

12 TITLE IV—APPLICATION OF MAXIMUM HOURS 13 PROVISIONS

14 PRESENTLY AND NEWLY COVERED EMPLOYEES

15 SEC. 401. Section 7(a) of such Act is amended to read
16 as follows:

17 “(a)(1) Except as otherwise provided in this section,
18 no employer shall employ any of his employees who in any
19 workweek is engaged in commerce or in the production of
20 goods for commerce, or is employed in an enterprise engaged
21 in commerce or in the production of goods for commerce,
22 for a workweek longer than forty hours unless such em-
23 ployee receives compensation for his employment in excess
24 of the hours above specified at a rate not less than one and
25 one-half times the regular rate at which he is employed.

1 ~~“(2)~~ No employer shall employ any of his employees
2 who in any workweek is engaged in commerce or in the
3 production of goods for commerce, or is employed in an
4 enterprise engaged in commerce or in the production of
5 goods for commerce, and who in such workweek is brought
6 within the purview of this subsection by the amendments
7 made to this Act by the Fair Labor Standards Amendments
8 of 1966—

9 ~~“(A)~~ for a workweek longer than forty-four hours
10 during the first year from the effective date of the Fair
11 Labor Standards Amendments of 1966.

12 ~~“(B)~~ for a workweek longer than forty-two hours
13 during the second year from such date, or

14 ~~“(C)~~ for a workweek longer than forty hours after
15 the expiration of the second year from such date,
16 unless such employee receives compensation for his employ-
17 ment in excess of the hours above specified at a rate not less
18 than one and one-half times the regular rate at which he is
19 employed.”

20 COMMISSION SALESMAN

21 SEC. 402. Subsection ~~(i)~~ of section 7 of such Act (as
22 so redesignated by section 204(d) of this Act) is amended
23 by adding at the end thereof the following new sentence: “In
24 determining the proportion of compensation representing
25 commissions, all earnings resulting from the application of

1 a bona fide commission rate shall be deemed commissions on
 2 goods or services without regard to whether the computed
 3 commissions exceed the draw or guarantee."

4 TITLE V—STUDENTS AND MANAGEMENT
 5 TRAINEES

6 STUDENTS AND MANAGEMENT TRAINEES

7 SEC. 501. (a) Section 14 of such Act is amended—

8 (1) by inserting "(a)" immediately before "The
 9 Secretary of Labor";

10 (2) by striking out "of messengers" and inserting
 11 in lieu thereof "and of messengers";

12 (3) by striking out "; and of full-time students
 13 outside of their school hours in any retail or service
 14 establishment: *Provided*, That such employment is not of
 15 the type ordinarily given to a full-time employee"; and

16 (4) by adding at the end thereof the following new
 17 subsections:

18 "(b) The Secretary, to the extent necessary in order
 19 to prevent curtailment of opportunities for employment, shall
 20 by regulation or order provide for the employment of full-
 21 time students, regardless of age but in compliance with appli-
 22 cable child labor laws, on a part-time basis in retail or service
 23 establishments (not to exceed twenty hours in any work-
 24 week) or on a part-time or a full-time basis in such establish-

1 ments during school vacations, under special certificates
2 issued pursuant to regulations of the Secretary, at a wage rate
3 not less than 85 per centum of the minimum wage applicable
4 under section 6, except that the proportion of student hours
5 of employment to total hours of employment of all employees
6 in any establishment may not exceed ~~(1)~~ such proportion
7 for the corresponding month of the twelve-month period
8 preceeding May 1, 1961, ~~(2)~~ in the case of a retail or service
9 establishment whose employees ~~(other than employees en-~~
10 ~~gaged in commerce or in the production of goods for com-~~
11 ~~merce)~~ are covered by this Act for the first time on or after
12 the effective date of the Fair Labor Standards Amend-
13 ments of 1966, such proportion for the corresponding month
14 of the twelve-month period immediately prior to such date,
15 or ~~(3)~~ in the case of a retail or service establishment com-
16 ing into existence after May 1, 1961, or a retail or service
17 establishment for which records of student hours worked
18 are not available, a proportion of student hours of employ-
19 ment to total hours of employment of all employees based
20 on the practice during the twelve-month period preceeding
21 May 1, 1961, in ~~(A)~~ similar establishments of the same
22 employer in the same general metropolitan area in which
23 the new establishment is located, ~~(B)~~ similar establishments
24 of the same employer in the same or nearby counties if the
25 new establishment is not in a metropolitan area, or ~~(C)~~

1 other establishments of the same general character operating
2 in the community or the nearest comparable community.
3 Before the Secretary may issue a certificate under this sub-
4 section he must find that such employment will not create a
5 substantial probability of reducing the full-time employment
6 opportunities of persons other than those employed under
7 this subsection.

8 “(e) The Secretary, to the extent necessary in order to
9 prevent curtailment of opportunities for employment, shall
10 by certificate or order provide for the employment of full-
11 time students, regardless of age but in compliance with
12 applicable child labor laws, on a part-time basis in agricul-
13 ture (not to exceed twenty hours in any workweek) or on a
14 part-time or a full-time basis in agriculture during school
15 vacations, at a wage rate not less than 58 per centum of the
16 minimum wage applicable under section 6. Before the Sec-
17 retary may issue a certificate or order under this subsection
18 he must find that such employment will not create a substan-
19 tial probability of reducing the full time employment oppor-
20 tunities of persons other than those employed under this
21 subsection.

22 “(d) The Secretary shall by regulation or by order
23 provide that retail or service establishments may employ
24 management trainees, under special certificates issued pur-
25 suant to regulations of the Secretary, without paying such

1 trainees the overtime compensation provided for by section
 2 7 for a period which shall not exceed eighteen months, if
 3 such trainees are being trained for employment in a bona
 4 fide executive or administrative capacity as defined by the
 5 Secretary under section 13(a)-(1). In the case of any re-
 6 tail or service establishment, no such special certificate shall
 7 be in effect—

8 “(1) where there are fifty employees or less in
 9 such establishment, with respect to more than one man-
 10 agement trainee, or

11 “(2) where there are more than fifty employees
 12 in such establishment, with respect to more than a
 13 number of such trainees which is equal to 3 per centum
 14 of the number of employees in such establishment in
 15 excess of fifty (rounded to the next lowest whole num-
 16 ber), plus one, or

17 “(3) where such management trainees receive
 18 compensation for hours worked over forty in any work-
 19 week at a rate less than one and one-half times the
 20 minimum wage rate applicable to such employees under
 21 section 6, or

22 “(4) where such management trainees are em-
 23 ployed for more than forty-eight hours in any workweek.

24 “(e) Nothing in this Act shall require any employer
 25 to pay in excess of 75 per centum of the applicable minimum

1 wage prescribed by section 6 to any employee, under the age
 2 of twenty-one years, during the first six weeks of full-time
 3 employment of such employee's employment career."

4 (b) The center heading for such section 14 is amended
 5 to read as follows:

6 "LEARNERS, APPRENTICES, AND HANDICAPPED WORKERS;
 7 STUDENTS; AND MANAGEMENT TRAINEES".

8 TITLE VI—STATUTE OF LIMITATIONS; EFFEC-
 9 TIVE DATE; AND STUDY

10 STATUTE OF LIMITATIONS

11 SEC. 601. (a) Section 16(c) of such Act is amended
 12 by striking out "two-year statute" and by inserting in lieu
 13 thereof "statutes".

14 (b) Section 6(a) of the Portal-to-Portal Act of 1947
 15 (Public Law 49, Eightieth Congress) is amended by insert-
 16 ing before the semicolon at the end thereof the follow-
 17 ing: " , except that a cause of action arising out of a willful
 18 violation may be commenced within three years after the
 19 cause of action accrued".

20 EFFECTIVE DATE

21 SEC. 602. Except as otherwise provided in this Act, the
 22 amendments made by this Act shall take effect on February
 23 1, 1967. On and after the date of the enactment of this Act
 24 the Secretary is authorized to promulgate necessary rules,

1 regulations, or orders with regard to the amendments made
2 by this Act.

3 STUDY OF EXCESSIVE OVERTIME

4 SEC. 603. The Secretary of Labor is hereby instructed
5 to commence immediately a complete study of present prac-
6 tices dealing with overtime payments for work in excess
7 of forty hours per week and the extent to which such over-
8 time work impedes the creation of new job opportunities
9 in American industry. The Secretary is further instructed
10 to report to the Congress by July 1, 1967, the findings
11 of such survey with appropriate recommendations.

12 That this Act may be cited as the "Fair Labor Standards
13 Amendments of 1966".

14 TITLE I—DEFINITIONS

15 TIPS

16 SEC. 101. (a) Section 3(m) of the Fair Labor Stand-
17 ards Act of 1938 is amended by adding at the end thereof
18 the following new sentence: "In determining the wage of a
19 tipped employee, the amount paid such employee by his em-
20 ployer shall be deemed to be increased on account of tips by
21 an amount determined by the employer, but not by an
22 amount in excess of 50 per centum of the applicable mini-
23 mum wage rate, except that in the case of an employee who
24 (either himself or acting through his representative) shows
25 to the satisfaction of the Secretary that the actual amount of

tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount."

(b) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"(t) 'Tipped employee' means any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips."

DEFINITION OF ENTERPRISE

SEC. 102. (a) Section 3(r) of such Act is amended by adding at the end thereof the following: "For purposes of this subsection, the activities performed by any person or persons—

"(1) in connection with the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for physically or mentally handicapped or gifted children, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit), or

"(2) in connection with the operation of a street, suburban or interurban electric railway, or local trolley

1 *or motorbus carrier, if the rates and services of such rail-*
 2 *way or carrier are subject to regulation by a State or*
 3 *local agency (regardless of whether or not such rail-*
 4 *way or carrier is public or private or operated for profit*
 5 *or not for profit),*

6 *shall be deemed to be activities performed for a business*
 7 *purpose.”*

8 *(b) Section 3(d) of such Act is amended by inserting*
 9 *after “of a State” the following: “(except with respect to*
 10 *employees of a State, or a political subdivision thereof, em-*
 11 *ployed (1) in a hospital, institution, or school referred to in*
 12 *the last sentence of subsection (r) of this section, or (2) in*
 13 *the operation of a railway or carrier referred to in such*
 14 *sentence)”.*

15 *(c) Section 3(s) of such Act is amended to read as*
 16 *follows:*

17 *“(s) ‘Enterprise engaged in commerce or in the pro-*
 18 *duction of goods for commerce’ means an enterprise which*
 19 *has employees engaged in commerce or in the production of*
 20 *goods for commerce, including employees handling, selling,*
 21 *or otherwise working on goods that have been moved in or*
 22 *produced for commerce by any person, and which—*

23 *“(1) during the period February 1, 1967, through*
 24 *January 31, 1969, is an enterprise whose annual gross*
 25 *volume of sales made or business done is not less than*

1 \$500,000 (exclusive of excise taxes at the retail level
2 which are separately stated) or is a gasoline service
3 establishment whose annual gross volume of sales is not
4 less than \$250,000 (exclusive of excise taxes at the
5 retail level which are separately stated), and beginning
6 February 1, 1969, is an enterprise whose annual gross
7 volume of sales made or business done is not less than
8 \$350,000 (exclusive of excise taxes at the retail level
9 which are separately stated);

10 “(2) is engaged in laundering, cleaning, or re-
11 pairing clothing or fabrics;

12 “(3) is engaged in the business of construction
13 or reconstruction, or both; or

14 “(4) is engaged in the operation of a hospital, an
15 institution primarily engaged in the care of the sick,
16 the aged, the mentally ill or defective who reside on the
17 premises of such institution, a school for physically or
18 mentally handicapped or gifted children, or an institu-
19 tion of higher education (regardless of whether or not
20 such hospital, institution, or school is public or private
21 or operated for profit or not for profit).

22 Any establishment which has as its only regular employees
23 the owner thereof or the parent, spouse, child, or other mem-
24 ber of the immediate family of such owner shall not be con-

1 *sidered to be an enterprise engaged in commerce or in the*
 2 *production of goods for commerce or a part of such an en-*
 3 *terprise, and the sales of such establishment shall not be*
 4 *included for the purpose of determining the annual gross*
 5 *volume of sales of any enterprise for the purpose of this*
 6 *subsection. In any case in which a person other than the*
 7 *owner of an apartment building is engaged by such owner*
 8 *to perform management services in connection with the opera-*
 9 *tion of such building, any individual employed at, and resi-*
 10 *dent in, such building as a manager, caretaker, or janitor,*
 11 *or in a similar capacity, shall be considered, for the pur-*
 12 *poses of this subsection, to be the employee of the owner of*
 13 *such building."*

14 *AGRICULTURAL EMPLOYEES*

15 *SEC. 103. (a) Section 3(e) of such Act is amended*
 16 *to read as follows:*

17 *"(e) 'Employee' includes any individual employed by*
 18 *an employer, except that such term shall not, for the pur-*
 19 *poses of section 3(u), include—*

20 *"(1) any individual employed by an employer en-*
 21 *gaged in agriculture if such individual is the parent,*
 22 *spouse, child, or other member of the employer's imme-*
 23 *diat family,*

24 *"(2) any individual who is employed by an em-*
 25 *ployer engaged in agriculture if such individual (A) is*

employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (B) commutes daily from his permanent residence to the farm on which he is so employed, and (C) has been employed in agriculture less than thirteen weeks during the preceding calendar year, or

“(3) any individual who is employed by an employer engaged in agriculture if such individual is principally engaged in the range production of livestock.”

(b) Section 3 of such Act is further amended by adding after subsection (t) (added by section 101(b) of this Act) the following new subsection:

“(u) ‘Man-day’ means any day during which an employee performs any agricultural labor for one hour.”

TITLE II—REVISION OF EXEMPTIONS

HOTEL, RESTAURANT, AND RECREATIONAL ESTABLISHMENTS; HOSPITALS AND RELATED INSTITUTIONS

SEC. 201. (a) Section 13(a)(2) of such Act is amended by striking out everything preceding “A ‘retail or service establishment’” and inserting in lieu thereof the following:

“(2) any employee employed by any retail or

1 *service establishment (except an establishment or em-*
2 *ployee engaged in laundering, cleaning, or repairing*
3 *clothing or fabrics or an establishment engaged in the*
4 *operation of a hospital, institution, or school described*
5 *in section 3(s)(4)), if more than 50 per centum of*
6 *such establishment's annual dollar volume of sales of*
7 *goods or services is made within the State in which the*
8 *establishment is located, and such establishment is not in*
9 *an enterprise described in section 3(s) or such establish-*
10 *ment has an annual dollar volume of sales which is less*
11 *than \$250,000 (exclusive of excise taxes at the retail*
12 *level which are separately stated)."*

13 *(b)(1) Section 13(b) of such Act is amended by in-*
14 *serting after paragraph (17), added by section 206(a)(2)*
15 *of the Act, the following new paragraph:*

16 *"(18) any employee employed by an establishment*
17 *which is a hotel, motel, or restaurant; or is an institu-*
18 *tion (other than hospitals) primarily engaged in the care*
19 *of the sick, the aged, the mentally ill, or defective who*
20 *reside on the premises of such an institution; or"*.

21 *(2) Section 13(a) of such Act is amended by inserting*
22 *after paragraph (2) the following new paragraph in lieu of*
23 *the paragraph repealed by section 202 of this Act:*

24 *"(3) any employee employed by an establishment*
25 *which is an amusement or recreational establishment,*

1 if (A) it does not operate for more than seven months
 2 in any calendar year, or (B) during the preceding cal-
 3 endar year, its average receipts for any six months of
 4 such year were not more than $33\frac{1}{3}$ per centum of its
 5 average receipts for the other six months of such year:
 6 or”.

7 LAUNDRY AND CLEANING ESTABLISHMENTS

8 SEC. 202. Section 13(a)(3) of such Act is repealed.

9 AGRICULTURAL EMPLOYEES

10 SEC. 203. (a) Section 13 (a) (6) of such Act is amend-
 11 ed to read as follows:

12 “(6) any employee employed in agriculture (A) if
 13 such employee is employed by an employer who did not,
 14 during any calendar quarter during the preceding
 15 calendar year, use more than five hundred man-days
 16 of agricultural labor, (B) if such employee is the parent,
 17 spouse, child, or other member of his employer’s imme-
 18 diate family, or (C) if such employee (i) is employed
 19 as a hand harvest or hand cultivation laborer and is paid
 20 on a piece rate basis in an operation which has been, and
 21 is customarily and generally recognized as having been,
 22 paid on a piece rate basis in the region of employment,
 23 (ii) commutes daily from his permanent residence to the
 24 farm on which he is so employed, and (iii) has been em-
 25 ployed in agriculture less than thirteen weeks during the

1 preceding calendar year, or (D) if such employee (other
2 than an employee described in clause (C) of this subsec-
3 tion) (i) is sixteen years of age or under and is employed
4 as a hand harvest laborer, is paid on a piece-rate basis in
5 an operation which has been, and is customarily and
6 generally recognized as having been, paid on a piece-rate
7 basis in the region of employment; (ii) is employed on
8 the same farm as his parent or person standing in the
9 place of his parent; and (iii) is paid at the same piece
10 rate as employees over age sixteen are paid on the same
11 farm; or (E) if such employee is principally engaged
12 in the range production of livestock.”

13 (b) Section 13(a)(16) of such Act (agricultural em-
14 ployees employed in livestock auctions) is repealed.

15 (c) Section 13(b) of such Act is amended—

16 (A) by striking out the period at the end of para-
17 graph (11) and inserting in lieu thereof “; or”, and

18 (B) by adding at the end of paragraph (11) the
19 following new paragraphs:

20 “(12) any employee employed in agriculture or in
21 connection with the operation or maintenance of ditches,
22 canals, reservoirs, or waterways, not owned or operated
23 for profit, or operated on a share-crop basis, and which
24 are used exclusively for supply and storing of water for
25 agricultural purposes; or

1 “(13) any employee with respect to his employ-
2 ment in agriculture by a farmer, notwithstanding other
3 employment of such employee in connection with live-
4 stock auction operations in which such farmer is engaged
5 as an adjunct to the raising of livestock, either on his
6 own account or in conjunction with other farmers, if
7 such employee (A) is primarily employed during his
8 workweek in agriculture by such farmer, and (B) is
9 paid for his employment in connection with such live-
10 stock auction operations at a wage rate not less than
11 that prescribed by section 6(a)(1); or”.

12 (d) Section 13(c) of such Act is amended to read as
13 follows:

14 “(c)(1) The provisions of section 12 relating to child
15 labor shall not apply with respect to any employee employed
16 in agriculture outside of school hours for the school district
17 where such employee is living while he is so employed.

18 “(2) No employee below the age of sixteen may be em-
19 ployed in agriculture in an occupation that the Secretary
20 of Labor finds and declares to be particularly hazardous for
21 the employment of children below age sixteen, except where
22 such employee is employed by his parent or by a person
23 standing in the place of his parent on a farm owned or oper-
24 ated by such parent or person.

25 “(3) The provisions of section 12 relating to child labor

1 *shall not apply to any child employed as an actor or per-*
 2 *former in motion pictures or theatrical productions, or in*
 3 *radio or television productions."*

4 *AGRICULTURAL PROCESSING EMPLOYEES*

5 *SEC. 204. (a) Sections 13(a)(10) (employees en-*
 6 *gaged in handling and processing of agricultural, horticul-*
 7 *tural, and dairy products); 13(a)(17) (country elevator*
 8 *employees); 13(a)(18) (cotton ginning employees); and*
 9 *13(a)(22) (fruit and vegetable transportation employees)*
 10 *of such Act are repealed.*

11 *(b) Section 13(b) of such Act is amended by adding*
 12 *after paragraph (13) (added by section 203(c) of this Act)*
 13 *the following new paragraphs:*

14 *"(14) any employee employed within the area of*
 15 *production (as defined by the Secretary) by an estab-*
 16 *lishment commonly recognized as a country elevator,*
 17 *including such an establishment which sells products and*
 18 *services used in the operation of a farm, if no more than*
 19 *five employees are employed in the establishment in*
 20 *such operations; or*

21 *"(15) any employee engaged in ginning of cotton*
 22 *for market, in any place of employment located in a*
 23 *county where cotton is grown in commercial quan-*
 24 *tities or in the processing of sugarbeets, sugarbeet mo-*

lasses, sugarcane, or maple sap, into sugar (other than refined sugar) or syrup; or

“(16) any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables; or”.

(c) Subsection (c) of section 7 of such Act is amended to read as follows:

“(c) For a period or periods of not more than ten workweeks in the aggregate in any calendar year, or fourteen workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (d) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection if such employee (1) is employed by such employer in an industry found by the Secretary to be of a seasonal nature, and (2) receives compensation for employment by such employer in excess of ten

1 hours in any workday, or for employment by such employer
 2 in excess of fifty-two hours in any workweek, as the case
 3 may be, at a rate not less than one and one-half times the
 4 regular rate at which he is employed.

5 “(d) For a period or periods of not more than ten
 6 workweeks in the aggregate in any calendar year, or fourteen
 7 workweeks in the aggregate in the case of an employer
 8 who does not qualify for the exemption in subsection (c) of
 9 this section, any employer may employ any employee for a
 10 workweek in excess of that specified in subsection (a) with-
 11 out paying the compensation for overtime employment pre-
 12 scribed in such subsection, if such employee—

13 “(1) is employed by such employer in an enter-
 14 prise which is in an industry found by the Secretary—

15 “(A) to be characterized by marked annually
 16 recurring seasonal peaks of operation at the places
 17 of first marketing or first processing of agricul-
 18 tural or horticultural commodities from farms if
 19 such industry is engaged in the handling, packing,
 20 preparing, storing, first processing, or canning of
 21 any perishable agricultural or horticultural com-
 22 modities in their raw or natural state, or

23 “(B) to be of a seasonal nature and engaged
 24 in the handling, packing, storing, preparing, first
 25 processing, or canning of any perishable agricul-

tural or horticultural commodities in their raw or natural state, and

“(2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.”

(d)(1) Subsections (d), (e), (f), (g), and (h) of section 7 of such Act are redesignated as subsections (e), (f), (g), (h), and (i), respectively.

(2) Subsections (g) and (h) of such section 7 (as so redesignated by paragraph (1) of this subsection) are each amended by striking out “subsection (d)” and inserting in lieu thereof “subsection (e)”.

SMALL NEWSPAPERS

SEC. 205. Section 13(a)(8) of such Act is amended by striking out “where printed and published” and inserting in lieu thereof “where published”.

TRANSPORTATION COMPANIES

SEC. 206. (a) Section 13(a)(9) of such Act is repealed.

(b)(1) Section 13(a)(12) of such Act is repealed.

(2) Section 13(b) of such Act is amended by adding

1 after paragraph (16) added by section 204(b) of this
 2 Act) the following new paragraph:

3 “(17) any driver employed by an employer en-
 4 gaged in the business of operating taxicabs; or”.

5 (c) Section 13(b)(7) of such Act is amended to read
 6 as follows:

7 “(7) any driver, operator, or conductor employed
 8 by an employer whose annual gross volume of sales
 9 made or business done is less than \$1,000,000 (exclusive
 10 of excise taxes at the retail level which are separately
 11 stated), engaged in the business of operating a street,
 12 suburban or interurban electric railway, or local trolley
 13 or motorbus carrier, if the rates and services of such
 14 railway or carrier are subject to regulation by a State
 15 or local agency; or”

16 MOTION PICTURE THEATER EMPLOYEES

17 SEC. 207. Section 13(a) of such Act is amended by
 18 inserting after paragraph (8) the following new paragraph
 19 in lieu of the paragraph repealed by section 206(a) of this
 20 Act:

21 “(9) any employee employed by an establishment
 22 which is a motion picture theater; or”.

LOGGING CREWS

SEC. 208. *Section 13(a)(15) of such Act is amended to read as follows:*

“(15) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight during the year beginning February 1, 1967, and if the number of such employees does not exceed six beginning February 1, 1968, and thereafter.”

AUTOMOBILE, AIRCRAFT, AND FARM IMPLEMENT SALES

ESTABLISHMENTS

SEC. 209. *(a) Section 13(a)(19) of such Act is repealed.*

(b) Section 13(b) of such Act is amended by inserting after paragraph (9) the following new paragraph in lieu of the paragraph repealed by section 212 of this Act:

“(10) any salesman or mechanic primarily engaged in selling or servicing automobiles, trailers, trucks, farm implements or aircraft and partsmen primarily engaged

1 *in selling or servicing farm implements if employed by*
2 *a nonmanufacturing establishment primarily engaged in*
3 *the business of selling such vehicles to ultimate pur-*
4 *chasers; or''.*

5 *FOOD SERVICE EMPLOYEES AND EMPLOYEES OF BOWLING*
6 *ESTABLISHMENTS*

7 *SEC. 210. (a) Section 13(a)(20) of such Act is*
8 *repealed.*

9 (b) Section 13(b) of such Act is amended by adding
10 after paragraph (18) (added by section 201(b)(1) of this
11 Act) the following new paragraphs:

“(19) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs; or

19 “(20) any employee of a bowling establishment.”

20 *GASOLINE SERVICE STATIONS*

21 *SEC. 211. Section 13(b)(8) of such Act is repealed.*

22 PETROLEUM DISTRIBUTION EMPLOYEES

23 *SEC. 212. (a) Section 13(b)(10) of such Act is*
24 *repealed.*

1 (b) Section 7(b)(3) of such Act is amended to read
2 as follows:

3 “(3) by an independently owned and controlled
4 local enterprise (including an enterprise with more than
5 one bulk storage establishment) engaged in the whole-
6 sale or bulk distribution of petroleum products if—

7 “(A) the annual gross volume of sales of such
8 enterprise is less than \$1,000,000 exclusive of excise
9 taxes;

10 “(B) more than 75 per centum of such enter-
11 prise’s annual dollar volume of sales is made within
12 the State in which such enterprise is located, and

13 “(C) not more than 25 per centum of the
14 annual dollar volume of sales of such enterprise is to
15 customers who are engaged in the bulk distribution
16 of such products for resale,

17 and such employee receives compensation for employ-
18 ment in excess of forty hours in any workweek at a rate
19 not less than one and one-half times the minimum wage
20 rate applicable to him under section 6,".

21 *ENIWETOK AND KWAJALEIN ATOLLS AND JOHNSTON*22 *ISLAND*

23 *SEC. 213. Section 13(f) of such Act is amended by*
24 *striking out “and the Canal Zone” and inserting in lieu*

1 thereof “Eniwetok Atoll; Kwajalein Atoll; Johnston
2 Island; and the Canal Zone”.

3 *TECHNICAL AND CONFORMING AMENDMENTS*

4 *SEC. 214. (a) Section 3(n) of such Act is amended*
5 *by striking out “, except as used in subsection (s)(1),”.*

6 *(b) Section 13 (a) of such Act is amended—*

7 *(1) by redesignating paragraphs (11), (13),*
8 *(14), (15), and (21) as paragraphs (10), (11),*
9 *(12), (13), and (14), respectively, and*

10 *(2) by striking out “; or” at the end of paragraph*
11 *(14) (as so redesignated in this subsection) and insert-*
12 *ing in lieu thereof a period.*

13 *(c) Paragraph (7) of section 13(a) of such Act is*
14 *amended by striking out “or order” and inserting in lieu*
15 *thereof “, order, or certificate”.*

16 *TITLE III—INCREASE IN MINIMUM WAGE*

17 *PRESENTLY COVERED EMPLOYEES*

18 *SEC. 301. (a) Section 6(a) of such Act is amended by*
19 *amending that portion of the section preceding paragraph*
20 *(2) to read as follows:*

21 *“(a) Every employer shall pay to each of his em-*

1 *ployees who in any workweek is engaged in commerce or in*
2 *the production of goods for commerce, or is employed in an*
3 *enterprise engaged in commerce or in the production of*
4 *goods for commerce, wages at the following rates:*

5 “(1) not less than \$1.40 an hour during the first
6 year from the effective date of the Fair Labor Standards
7 Amendments of 1966 and not less than \$1.60 an hour
8 thereafter, except as otherwise provided in this section;”.

9 (b) Such section is amended by striking out the period
10 at the end of paragraph (3) and inserting a semicolon.
11 and by adding the following new paragraph:

12 “(4) if such employee is employed as a seaman
13 on an American vessel, not less than the rate which will
14 provide to the employee, for the period covered by the
15 wage payment, wages equal to compensation at the
16 hourly rate prescribed by paragraph (1) of this sub-
17 section for all hours during such period when he was
18 actually on duty (including periods aboard ship when
19 the employee was on watch or was, at the direction of
20 a superior officer, performing work or standing by, but

1 not including off-duty periods which are provided pur-
2 suant to the employment agreement); or”.

3 AGRICULTURAL EMPLOYEES

4 SEC. 302. Section 6(a) of such Act is amended by
5 adding after paragraph (4) (added by section 301(b) of
6 this Act) the following new paragraph:

7 “(5) if such employee is employed in agriculture,
8 not less than \$1 an hour during the first year from
9 the effective date of the Fair Labor Standards Amend-
10 ments of 1966, not less than \$1.15 an hour during the
11 second year from such date, and not less than \$1.30 an
12 hour thereafter: Provided, That in the case of workers
13 employed in agriculture in hand harvest work by an
14 employer on a piece-rate basis, if during any workweek
15 the average of the aggregated earnings of such workers
16 exceeds the minimum hourly wage as prescribed above,
17 the employer shall be considered to be in compliance with
18 this section: Provided further, That no employee em-
19 ployed on such piece-rate basis is paid less than 75
20 per centum of the minimum wage applicable under this
21 paragraph.”

22 NEWLY COVERED EMPLOYEES

23 SEC. 303. Section 6(b) of such Act is amended to read
24 as follows:

25 “(b) Every employer shall pay to each of his employees

1 (other than an employee to whom subsection (a)(5) ap-
2 plies) who in any workweek is engaged in commerce or in
3 the production of goods for commerce, or is employed in an
4 enterprise engaged in commerce or in the production of
5 goods for commerce, and who in such workweek is brought
6 within the purview of this section by the amendments made
7 to this Act by the Fair Labor Standards Amendments of
8 1966, wages at the following rates:

9 “(1) not less than \$1 an hour during the first
10 year from the effective date of such amendments,

11 “(2) not less than \$1.15 an hour during the second
12 year from such date,

13 “(3) not less than \$1.30 an hour during the third
14 year from such date,

15 “(4) not less than \$1.45 an hour during the fourth
16 year from such date, and

17 “(5) not less than \$1.60 an hour thereafter.”

18 *EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS*

19 *SEC. 304. Section 6(c) of such Act is amended to read*
20 *as follows:*

21 “(c)(1) The rate or rates provided by subsections (a)
22 and (b) of this section shall be superseded in the case of
23 any employee in Puerto Rico or the Virgin Islands only for
24 so long as and insofar as such employee is covered by a wage
25 order heretofore or hereafter issued by the Secretary pur-

1 *suant to the recommendations of a special industry committee*
2 *appointed pursuant to section 5.*

3 “(2) *In the case of any such employee who is covered*
4 *by such a wage order and to whom the rate or rates pre-*
5 *scribed by subsection (a) would otherwise apply, the fol-*
6 *lowing rates shall apply:*

7 “(A) *The rate or rates applicable under the most*
8 *recent wage order issued by the Secretary prior to the*
9 *effective date of the Fair Labor Standards Amendments*
10 *of 1966, increased by 12 per centum, unless such rate*
11 *or rates are superseded by the rate or rates prescribed*
12 *in a wage order issued by the Secretary pursuant to the*
13 *recommendations of a review committee appointed under*
14 *paragraph (C). Such rate or rates shall become effec-*
15 *tive sixty days after the effective date of the Fair Labor*
16 *Standards Amendments of 1966 or one year from the*
17 *effective date of the most recent wage order applicable*
18 *to such employee theretofore issued by the Secretary*
19 *pursuant to the recommendations of a special industry*
20 *committee appointed under section 5, whichever is later.*

21 “(B) *Beginning one year after the applicable effec-*
22 *tive date under paragraph (A), not less than the rate*
23 *or rates prescribed by paragraph (A), increased by*
24 *an amount equal to 16 per centum of the rate or rates*
25 *applicable under the most recent wage order issued by*

1 *the Secretary prior to the effective date of the Fair Labor*
2 *Standards Amendments of 1966, unless such rate or*
3 *rates are superseded by the rate or rates prescribed in*
4 *a wage order issued by the Secretary pursuant to the*
5 *recommendations of a review committee appointed under*
6 *paragraph (C).*

7 *“(C) Any employer, or group of employers, em-*
8 *ploying a majority of the employees in an industry in*
9 *Puerto Rico or the Virgin Islands, may apply to the*
10 *Secretary in writing for the appointment of a review*
11 *committee to recommend the minimum rate or rates*
12 *to be paid such employees in lieu of the rate or rates*
13 *provided by paragraph (A) or (B). Any such appli-*
14 *cation with respect to any rate or rates provided for*
15 *under paragraph (A) shall be filed within sixty days*
16 *following the enactment of the Fair Labor Standards*
17 *Amendments of 1966 and any such application with*
18 *respect to any rate or rates provided for under para-*
19 *graph (B) shall be filed not more than one hundred*
20 *and twenty days and not less than sixty days prior to*
21 *the effective date of the applicable rate or rates under*
22 *paragraph (B). The Secretary shall promptly con-*
23 *sider such application and may appoint a review com-*
24 *mittee if he has reasonable cause to believe, on the basis*
25 *of financial and other information contained in the ap-*

1 *plication, that compliance with any applicable rate or*
2 *rates prescribed by paragraph (A) or (B) will sub-*
3 *stantially curtail employment in such industry. The*
4 *Secretary's decision upon any such application shall*
5 *be final. Any wage order issued pursuant to the recom-*
6 *mendations of a review committee appointed under this*
7 *paragraph shall take effect on the applicable effective*
8 *date provided in paragraph (A) or (B).*

9 *“(D) In the event a wage order has not been issued*
10 *pursuant to the recommendation of a review committee*
11 *prior to the applicable effective date under paragraph*
12 *(A) or (B), the applicable percentage increase pro-*
13 *vided by any such paragraph shall take effect on the*
14 *effective date prescribed therein, except with respect to*
15 *the employees of an employer who filed an application*
16 *under paragraph (C) and who files with the Secretary*
17 *an undertaking with a surety or sureties satisfactory to*
18 *the Secretary for payment to his employees of an amount*
19 *sufficient to compensate such employees for the dif-*
20 *ference between the wages they actually receive and the*
21 *wages to which they are entitled under this subsection.*
22 *The Secretary shall be empowered to enforce such under-*
23 *taking and any sums recovered by him shall be held in*
24 *a special deposit account and shall be paid, on order of*
25 *the Secretary, directly to the employee or employees*

1 *affected. Any such sum not paid to an employee be-*
2 *cause of inability to do so within a period of three years*
3 *shall be covered into the Treasury of the United States*
4 *as miscellaneous receipts.*

5 “(3) *In the case of any such employee to whom sub-*
6 *section (a)(5) or subsection (b) would otherwise apply,*
7 *the Secretary shall within sixty days after the effective date*
8 *of the Fair Labor Standards Amendments of 1966 appoint a*
9 *special industry committee in accordance with section 5 to*
10 *recommend the highest minimum wage rate or rates in ac-*
11 *cordance with the standards prescribed by section 8, but not*
12 *in excess of the applicable rate provided by subsection (a)*
13 *(5) or subsection (b), to be applicable to such employee in*
14 *lieu of the rate or rates prescribed by subsection (a)(5) or*
15 *subsection (b), as the case may be. The rate or rates recom-*
16 *mended by the special industry committee shall be effective*
17 *with respect to such employee upon the effective date of the*
18 *wage order issued pursuant to such recommendation but not*
19 *before sixty days after the effective date of the Fair Labor*
20 *Standards Amendments of 1966.*

21 “(4) *The provisions of section 5 and section 8, relating*
22 *to special industry committees, shall be applicable to review*
23 *committees appointed under this subsection. The appoint-*
24 *ment of a review committee shall be in addition to and not*
25 *in lieu of any special industry committee required to be*

1 appointed pursuant to the provisions of subsection (a) of
2 section 8, except that no special industry committee shall
3 hold any hearing within one year after a minimum wage
4 rate or rates for such industry shall have been recommended
5 to the Secretary by a review committee to be paid in lieu
6 of the rate or rates provided for under paragraph (A) or
7 (B). The minimum wage rate or rates prescribed by this
8 subsection shall be in effect only for so long as and insofar
9 as such minimum wage rate or rates have not been super-
10 seded by a wage order fixing a higher minimum wage rate
11 or rates (but not in excess of the applicable rate prescribed
12 in subsection (a) or subsection (b)) hereafter issued by the
13 Secretary pursuant to the recommendation of a special indus-
14 try committee.”

15 *CONTRACT SERVICES TO FEDERAL GOVERNMENT*

16 *SEC. 305.* Section 6 of such Act is amended by adding
17 at the end thereof the following new subsection:

18 “(e) Notwithstanding the provisions of section 13
19 of this Act (except subsections (a)(1) and (f) thereof),
20 every employer providing services under a contract subject
21 to section 2(b)(1) of the Service Contract Act of 1965 (79
22 Stat. 1034) or any subcontract thereunder shall pay to each
23 of his employees whose rate of pay is not governed by the Serv-
24 ice Contract Act of 1965 (Public Law 89-286) or to whom
25 subsection (a)(1) of this section is not applicable, wages at

1 rates not less than the rates provided for in subsection (b) of
2 this section.

3 FEDERAL EMPLOYEES

4 SEC. 306. Section 18 of such Act is amended by insert-
5 ing “(a)” immediately after “SEC. 18.” and by adding at
6 the end thereof the following new subsection:

7 “(b) Notwithstanding any other provision of this Act
8 (other than section 13(f)) or any other law, any employee—

9 “(1) described in paragraph (7) of section 202
10 of the Classification Act of 1949 (5 U.S.C. 1082(7))
11 whose compensation is required to be fixed and adjusted
12 from time to time as nearly as is consistent with the
13 public interest in accordance with prevailing rates, and
14 any Federal employee in the Canal Zone engaged in em-
15 ployment of the kind described in such paragraph (7),
16 or

17 “(2) described in section 7474 of title 10, United
18 States Code, whose rates of wages are established to
19 conform, as nearly as is consistent with the public
20 interest, with those of private establishments in the im-
21 mediate vicinity, or

22 “(3) employed in a nonappropriated fund instru-
23 mentality under the jurisdiction of the Armed Forces,
24 shall have his basic compensation fixed or adjusted at a

1 wage rate which is not less than the appropriate wage rate
2 provided for in section 6(a) (1) of this Act (except that the
3 wage rate provided for in section 6(b) shall apply to any
4 employee who performed services during the workweek in a
5 work place within the Canal Zone), and shall have his over-
6 time compensation set at an hourly rate not less than the over-
7 time rate provided for in section 7(a) of this Act.”

8 CANAL ZONE EMPLOYEES AND PANAMA CANAL STUDY

9 SEC. 307. Subsection (d) of section 4 of the Act, as
10 amended, is amended by adding at the end of the subsection
11 the following:

12 “The Secretary of Labor, after consultation with the
13 Secretary of Defense and the Secretary of State, shall (1)
14 undertake a study with respect to (A) wage rates payable
15 to Federal employees in the Canal Zone engaged in employ-
16 ment of the kind described in paragraph (7) of section 202
17 of the Classification Act of 1949 (5 U.S.C. 1082(7)) and
18 (B) the requirements of an effective and economical operation
19 of the Panama Canal, and (2) report to the Congress not
20 later than July 1, 1968, the results of his study together with
21 such recommendations as he may deem appropriate.”

1 *TITLE IV—APPLICATION OF MAXIMUM HOURS*
2 *PROVISIONS*

3 *PRESENTLY AND NEWLY COVERED EMPLOYEES*

4 *SEC. 401. Section 7(a) of such Act is amended to read*
5 *as follows:*

6 *“(a)(1) Except as otherwise provided in this section,*
7 *no employer shall employ any of his employees who in any*
8 *workweek is engaged in commerce or in the production of*
9 *goods for commerce, or is employed in an enterprise engaged*
10 *in commerce or in the production of goods for commerce,*
11 *for a workweek longer than forty hours unless such em-*
12 *ployee receives compensation for his employment in excess*
13 *of the hours above specified at a rate not less than one and*
14 *one-half times the regular rate at which he is employed.*

15 *“(2) No employer shall employ any of his employees*
16 *who in any workweek is engaged in commerce or in the*
17 *production of goods for commerce, or is employed in an*
18 *enterprise engaged in commerce or in the production of*
19 *goods for commerce, and who in such workweek is brought*
20 *within the purview of this subsection by the amendments*

1 made to this Act by the Fair Labor Standards Amendments
2 of 1966—

3 “(A) for a workweek longer than forty-four hours
4 during the first year from the effective date of the Fair
5 Labor Standards Amendments of 1966,

6 “(B) for a workweek longer than forty-two hours
7 during the second year from such date, or

8 “(C) for a workweek longer than forty hours after
9 the expiration of the second year from such date,
10 unless such employee receives compensation for his employ-
11 ment in excess of the hours above specified at a rate not less
12 than one and one-half times the regular rate at which he is
13 employed.”

14 COMMISSION SALESMAN

15 SEC. 402. Subsection (i) of section 7 of such Act (as
16 so redesignated by section 204(d) of this Act) is amended
17 by adding at the end thereof the following new sentence: “In
18 determining the proportion of compensation representing
19 commissions, all earnings resulting from the application of
20 a bona fide commission rate shall be deemed commissions on
21 goods or services without regard to whether the computed
22 commissions exceed the draw or guarantee.”

23 SEC. 403. Section 7 of such Act is amended to include
24 the following new subsection:

25 “(j) No employer engaged in the operation of a hospital

1 shall be deemed to have violated subsection (a) if, pursuant
2 to an agreement or understanding arrived at between the
3 employer and the employee before performance of the work,
4 a work period of fourteen consecutive workdays is accepted
5 in lieu of the workweek of seven consecutive workdays for
6 purposes of overtime computation and if, for his employ-
7 ment in excess of eight hours in any workday and in excess
8 of eighty hours in such fourteen-day period, the employee re-
9 ceives compensation at a rate not less than one and one-half
10 times the regular rate at which he is employed.”

11 TITLE V—HANDICAPPED WORKERS

12 SEC. 501. Section 14 of the Fair Labor Standards
13 Act of 1938 is amended by inserting “(a)” after “SEC. 14.”
14 and by amending clause (2) of subsection (a) to read as
15 follows: “(2) subject to the special provisions in subsections
16 ‘(b)’ and ‘(c)’, the employment of individuals whose earning
17 capacity is impaired by age, or physical or mental deficiency
18 or injury, under special certificates issued by the Secretary,
19 at such wages lower than the minimum wage applicable under
20 section 6 and for such period as shall be fixed in such
21 certificates.”

22 SEC. 502. Section 14 of the Fair Labor Standards Act
23 of 1938 is further amended by adding the following new sub-
24 sections at the end of subsection (a):

25 “(b) Handicapped workers employed in sheltered

1 workshops shall be paid wages commensurate with those
2 paid nonhandicapped workers in industry in the vicinity
3 for essentially the same type, quantity, and quality of work,
4 but not less than the wages specified in the special certifi-
5 cates issued under clause (2) of subsection (a), subject
6 to the provisions of this subsection and subsection (c):
7 Provided, That effective January 1, 1967, no certificate
8 shall be issued under clause (2) of subsection (a) which
9 shall permit the payment to handicapped workers employed
10 in sheltered workshops of wages at a rate lower than 50
11 per centum of the minimum wage applicable under section
12 6 of this Act; but in no instance shall handicapped workers
13 employed in sheltered workshops receiving wages in excess
14 of the prescribed minimums be reduced to the prescribed
15 minimums.

16 “The Secretary, pursuant to regulations which he shall
17 prescribe, may issue special certificates for less than the
18 minimum wage requirements under this subsection in pro-
19 portion to the worker’s productivity:

20 “(1) In the case of handicapped workers engaged
21 in training or evaluation programs, where their work is
22 incidental to such programs, and such regulations shall
23 specify time limitations and other criteria which shall be
24 conditions for the issuance of such special certificates;
25 and

1 “(2) Under exceptional circumstances, and such
2 regulations shall specify and describe the term ‘excep-
3 tional circumstances’ which shall include multihandi-
4 capped individuals and those individuals so severely
5 impaired that they are unable to engage in competitive
6 employment.

7 “The State agency administering or supervising the
8 administration of vocational rehabilitation services shall cer-
9 tify to the Secretary those handicapped individuals for whom
10 special certificates may be issued under (1) and (2) above,
11 and said certifications shall be reviewed annually by the
12 Secretary.

13 “(c) The Secretary shall establish a new classification
14 which shall be called work activity centers, and which shall
15 be distinguished from the sheltered workshops covered by sub-
16 sections (a) and (b) of this section in that said centers shall
17 be planned and designed exclusively for handicapped work-
18 ers whose physical or mental impairment is so severe as to
19 make their productive capacity inconsequential.

20 “The Secretary is directed to conduct a study by Jan-
21 uary 1, 1968, to establish a formula for determining equi-
22 table compensation for handicapped workers employed in
23 work activity centers.

24 “Only handicapped workers whose productive capacity
25 has been evaluated and certified to the Secretary as incon-

1 sequential by the State agency administering or supervising
2 the administration of vocational rehabilitation services shall
3 be employed in a work activity center, and such certifications
4 shall be reviewed annually by the Secretary.

5 “Pending the development of such formula, the Secretary
6 is directed to approve special certificates for less than the
7 minimums applicable under section 6, or subsections (a)
8 and (b) of this section.”

9 SEC. 503. There are hereby authorized to be appropri-
10 ated such sums as may be necessary for the administration
11 of the provisions of this Act by the Secretary of Labor and
12 by the Secretary of Health, Education, and Welfare.

13 SEC. 504. The Secretary of Labor is hereby instructed
14 to commence immediately a complete study of wage pay-
15 ments to handicapped clients of sheltered workshops and of
16 the feasibility of raising existing wage standards in such
17 workshops. The Secretary is further instructed to report
18 to the Congress by July 1, 1967, the findings of such study
19 with appropriate recommendations.

20 TITLE VI—PREVENTION OF DISCRIMINATION
21 BECAUSE OF AGE

22 SEC. 601. Section 6(d)(4) of such Act is amended
23 by inserting after the word “subsection” the words “or sub-
24 section (f)”.

1 *SEC. 602. Section 6 of such Act is amended by adding*
2 *at the end thereof a new subsection as follows:*

3 *“(f)(1) No employer having fifty or more employees*
4 *subject to any of the provisions of this section shall, within*
5 *any establishment in which such employees are employed—*

6 *“(A) refuse to hire, discharge, or otherwise dis-*
7 *criminate against any person forty-five years of age or*
8 *older with respect to the terms, conditions, or privileges*
9 *of such person’s lawful employment, because of such per-*
10 *son’s age, when such an age distinction is not a bona fide*
11 *occupational qualification reasonably necessary to the*
12 *normal operation of that particular business or enter-*
13 *prise; or*

14 *“(B) utilize in the hiring or recruitment of indi-*
15 *viduals for employment otherwise lawful any employ-*
16 *ment agency, placement service, training school or center,*
17 *labor organization, or any other source which so discrim-*
18 *inates against persons forty-five years of age or older*
19 *because of their age.*

20 *“(2) No labor organization having fifty or more mem-*
21 *bers subject to any of the provisions of this section shall so*
22 *discriminate against any person forty-five years of age or*
23 *older or limit, segregate, or classify its membership in any*
24 *way which would deprive or tend to deprive such person of*

1 otherwise lawful employment opportunities, or would limit
2 such employment opportunities or otherwise adversely affect
3 his status as an employee or as such an applicant for employ-
4 ment, or would affect adversely his wages, hours, or employ-
5 ment conditions, because of such person's age.

6 “(3) No employer subject to paragraph (1) or labor
7 organization subject to paragraph (2) shall discharge, expel,
8 or otherwise discriminate against any person, because he has
9 opposed any practice prohibited by either such paragraph
10 or has filed a charge, testified, participated, or assisted in
11 any proceeding under this Act arising out of any such
12 practice.

13 “(4) For purposes of administration and enforcement,
14 any amounts owing to any employee which have been with-
15 held from such employee in violation of this subsection shall
16 be deemed to be unpaid minimum wages or unpaid over-
17 time compensation under this Act.

18 “(5) Before instituting any action under section 16
19 or section 17 with respect to any practice by any employer
20 or labor organization in violation of this subsection, the
21 Secretary shall endeavor to eliminate such practice by in-
22 formal methods of conference, conciliation, and persuasion.

23 “(6) Upon the request of any employer, whose em-
24 ployees or some of them refuse or threaten to refuse to co-
25 operate in effectuating the provisions of this subsection, the

1 Secretary is authorized to assist in such effectuation by con-
2 ciliation or other remedial action.

3 “(7) The Secretary is authorized to make such tech-
4 nical studies as are appropriate to effectuate the purposes and
5 policies of this subsection and to make the results of such
6 studies available to interested governmental and nongovern-
7 mental agencies.

8 “(8) The Secretary is authorized to create such local,
9 State, or regional advisory and conciliation councils as in his
10 judgment will aid in effectuating the purpose of this Act,
11 and to empower them to study the problem or specific in-
12 stances of discrimination in employment because of age and
13 to foster through community effort or otherwise means to
14 fully utilize the skills of workers over forty-five, and make
15 recommendations to the Secretary for the development of
16 policies and procedures in general and in specific instances.
17 Such advisory and conciliation councils shall be composed
18 of representative citizens, residents of the area for which they
19 are appointed, serving without pay, but with reimbursement
20 for actual and necessary traveling expenses; and the Secre-
21 tary may make provision for technical and clerical assistance
22 to such councils and for the expenses of such assistance.

23 “(9) Notwithstanding the provisions of paragraph (1)
24 of section 13(a), this subsection shall not be inapplicable to
25 employees described in such paragraph.”

1 *TITLE VII—STATUTE OF LIMITATIONS; EF-*
2 *FECTIVE DATE; STUDY; AND GOVERN-*
3 *MENT CONTRACTS*

4 *STATUTE OF LIMITATIONS*

5 *SEC. 701. (a) Section 16(c) of such Act as amended*
6 *by striking out “two-year statute” and by inserting in lieu*
7 *thereof “statutes”.*

8 *(b) Section 6(a) of the Portal-to-Portal Act of 1947*
9 *(Public Law 49, Eightieth Congress) is amended by insert-*
10 *ing before the semicolon at the end thereof the following:”,*
11 *except that a cause of action arising out of a willful viola-*
12 *tion may be commenced within three years after the cause*
13 *of action occurred”.*

14 *EFFECTIVE DATE*

15 *SEC. 702. Except as otherwise provided in this Act, the*
16 *amendments made by this Act shall take effect on February*
17 *1, 1957. On and after the date of the enactment of this Act*
18 *the Secretary is authorized to promulgate necessary rules,*
19 *regulations, or orders with regard to the amendments made*
20 *by this Act.*

21 *STUDY OF EXCESSIVE OVERTIME*

22 *SEC. 703. The Secretary of Labor is hereby instructed*
23 *to commence immediately a complete study of present prac-*
24 *tices dealing with overtime payments for work in excess*
25 *of forty hours per week and the extent to which such over-*

1 time work impedes the creation of new job opportunities
2 in American industry. The Secretary is further instructed
3 to report to the Congress by July 1, 1967, the findings
4 of such survey with appropriate recommendations.

5 *SEC. 704. In the event any employer is engaged in work*
6 *on a contract with the United States Government negotiated*
7 *or awarded prior to the enactment of this Act, such contracts,*
8 *if materially affected by this Act, may be renegotiated to re-*
9 *flect whatever increased cost of labor that may be necessitated*
10 *by the terms of this Act notwithstanding the provisions of any*
11 *other Act.*

12 *TITLE VIII—INCREASE IN WITNESS FEES*

13 *SEC. 801. The first sentence of section 1821, title 28,*
14 *United States Code, is amended to read as follows: "A wit-*
15 *ness attending in any court of the United States, or before*
16 *a United States commissioner, or before any person author-*
17 *ized to take his deposition pursuant to any rule or order*
18 *of a court of the United States, at any time shall receive for*
19 *each hour or fraction of an hour of such attendance, and*
20 *for each hour or fraction of an hour necessarily occupied*
21 *in going to and returning from the same, compensation at a*
22 *rate equal to the minimum hourly wage rate prescribed at*
23 *such time by section 6(a)(1) of the Fair Labor Standards*
24 *Act of 1938, as amended, but not less than \$4 per day for*
25 *each day of such attendance or travel, and shall receive 8*

1 cents per mile for going from and returning to his place
2 of residence.”

3 SEC. 802. The amendment made by this title shall take
4 effect on the first day of the third month beginning after
5 the date of enactment of this Act.

6 TITLE IX—STUDY OF EMERGENCY STRIKE
7 LAWS

8 SEC. 901. The Secretary of Labor is hereby directed to
9 commence immediately a complete study of the operations
10 and adequacy of the emergency labor disputes provisions of
11 the Railway Labor Act and the Labor-Management Rela-
12 tions Act. The Secretary is further instructed to report to
13 the Congress by January 15, 1967, the findings of such study
14 together with appropriate recommendations for such amend-
15 ments to the Railway Labor Act and the Labor-Manage-
16 ment Relations Act as will provide improved permanent pro-
17 cedures for the settlement of emergency labor disputes.

Passed the House of Representatives May 26, 1966.

Attest: RALPH R. ROBERTS,
Clerk.

Passed the Senate with an amendment August 26 (leg-
islative day, August 25), 1966.

Attest: EMERY L. FRAZIER,
Secretary.

89TH CONGRESS
2^D Session

H. R. 13712

AN ACT

To amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 26 (legislative day, AUGUST 25), 1966

Ordered to be printed with the amendment of the Senate

Aug. 30, 1966

13. APPALACHIA. Sens. Randolph and Cooper praised the Appalachian regional development program and Sen. Randolph urged that future funds should be appropriated directly to the Appalachian Regional Commission rather than through Commerce, Agriculture, Interior, and HEW budget as at present. pp. 20300-08
 14. INTEREST RATES. Sens. Proxmire, Long, La., and others expressed concern over high interest rates and housing costs increases. pp. 20296-7, 20317-22
-
- HOUSE
-
15. LABOR STANDARDS. Conferees were appointed on H. R. 13712, to increase minimum wages and to extend such coverage to additional employees. Senate conferees have already been appointed. p. 20336
 16. HISTORIC SITES. The Interior and Insular Affairs Committee reported with amendment S. 3035, to establish a program for the preservation of additional historic properties throughout the Nation (H. Rept. 1916). p. 20447
 17. WATER RESOURCES. The Interior and Insular Affairs Committee reported with amendment H. R. 13508, to direct the Interior Department to cooperate with N. Y. and N. J. on a program to develop, preserve, and restore the Hudson River and its shores and to authorize steps to protect those resources from adverse Federal actions until the States and Congress shall have opportunity to act on the program (H. Rept. 1917). p. 20447
Rep. Saylor expressed the "need to reassess the Nation's water needs" as "traditionally taxpayers in the eastern part of the United States have provided most of the funds for the development of water projects in the West." pp. 20416-9
 18. TRAFFIC SAFETY. Received the conference report on S. 3005, to establish motor vehicle safety standards (H. Rept. 1919). pp. 20389-96
Received the conference report on S. 3052 to provide for a coordinated national safety program through financial assistance to the States to accelerate highway traffic safety programs (H. Rept. 1920). pp. 20396-99
 19. LOANS. Passed S. 112, to authorize the Secretary of Agriculture to make real estate mortgage loans on leased lands in Hawaii, with an amendment to substitute the language of a similar bill, H. R. 15951, which was earlier passed as reported. H. R. 15951 was tabled (pp. 20336-8). The bill as passed authorizes "for a temporary period of less than 2 years, the making of farm improvement loans under subtitle A of the Consolidated Farmers Home Administration Act of 1961 to lessee-operators of farmland in Hawaii where (1) the land cannot be acquired by the applicant; (2) adequate security is provided for the loans; and (3) there is a reasonable probability of accomplishing the objectives and repayment of the loan."
 20. POSTAL RATES. Concurred in Senate amendments to H. R. 14904, to revise postal rates on certain fourth-class mail. This bill will now be sent to the President. pp. 20340-42
 21. TRANSPORTATION. Passed, 336-42, with amendments H. R. 15963, to establish a Department of Transportation. pp. 20342-84

22. INTEREST RATES. The "Daily Digest" states that the Rules Committee "Granted an open rule...on (making it in order to consider the committee substitute as an original bill for the purpose of amendment, further making it in order to consider H. R. 17255 as a substitute for the committee amendment) H. R. 14026, to prohibit insured banks from issuing negotiable interest-bearing or discounted notes, certificates of deposit, or other evidences of indebtedness." p. D827
23. CHEESE IMPORTS. Rep. Race inserted the text of his letters to HEW urging an increase in the amount of inspection activity on imported cheese and other dairy products and to this Department urging "immediate steps to curb the unrealistically high cheese import quotas imposed recently." pp. 20402-3
24. SOYBEANS. Rep. Kupferman commended the inauguration of a N. Y. "Soybean Futures Market," and inserted an article on the subject. pp. 20411-2
25. RECREATION. Rep. Madden inserted his testimony favoring legislation to provide for the establishment of the Indiana Dunes National Lakeshore Park. pp. 20445
26. OCEANOGRAPHY. Rep. Sickles stated that the seas contain hidden treasures in the form of minerals and food and hoped for new breakthroughs in this field. pp. 20430-1
27. FARM LABOR. Rep. Cohelan stated that "the whole country--California included--has benefited from the termination of mass importing of foreign farm labor." p. 20434
28. ELECTRIFICATION. Rep. Clark inserted an article, "Government Official's View: Dickey Won't Mean Much to Boston Power Users." pp. 20441-2
29. LANDS. The Interior and Insular Affairs Committee voted to report (but did not actually report) H. R. 3104, amended, to remove a cloud on title to certain lands in Calif. p. D826

ITEMS IN APPENDIX

30. FOOD PRICES. Extension of remarks of Rep. Rumsfeld stating that "the growing problems of rising prices and inflation will not be solved by wishing they would go away", and inserting an article, "Costs Squeeze Wives' Budgets: How Women Fight Prices." pp. A4582-3
31. FARM PROGRAM. Rep. Laird inserted Oren Staley's address which sets forth the aims and objectives of the National Farmers Organization. pp. A4595-6
32. FARM LABOR. Extension of remarks of Rep. Hawkins stating that the "plight of the migrant farmworker is possibly the worst in the Nation", and will remain so until they are covered by labor laws. pp. A4596-7
33. CONSERVATION. Extension of remarks of Rep. Tuck describing how resource conservation measures have relieved drought conditions in his district. p. A4597
34. FOOD SUPPLY. Extension of remarks of Rep. Quillen stating "we must face now the seriousness of our shrinking surplus" and inserting an article on this subject. pp. A4598-9

House of Representatives

TUESDAY, AUGUST 30, 1966

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

There is one God and Father of all, who is above all and through all and in all.—Ephesians 4: 6.

Almighty God, our Heavenly Father, we pause in the midst of pressing duties and commanding needs to open our hearts in prayer unto Thee—who art the source of goodness and love and truth—that the light of Thy spirit may shine upon our pathway and illumine the way to righteousness, to justice, and to peace.

Keep our hearts clean, our spirits courageous, and our minds clear as we face the tasks of this day. Lead us and all men to that realm where good will shall reign and truth shall rule and freedom shall regulate the actions of men.

Before this altar of prayer we dedicate ourselves anew to Thee and we pledge our loyalty to our Nation and to the well-being of men everywhere: through Christ our Lord. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 9824. An act to amend the Life Insurance Act of the District of Columbia, approved June 19, 1934, as amended;

H.R. 13558. An act to provide for regulation of the professional practice of certified public accountants in the District of Columbia, including the examination, licensure, registration of certified public accountants, and for other purposes;

H.R. 13703. An act to make technical amendments to titles 19 and 20 of the District of Columbia Code;

H.R. 15858. An act to amend section 6 of the District of Columbia Redevelopment Act of 1945, to authorize early land acquisition for the purpose of acquiring a site for a replacement of Shaw Junior High School; and

H.J. Res. 1284. Joint resolution making continuing appropriations for the fiscal year 1967, and for other purposes.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1066. An act to amend section 11-1701 of the District of Columbia Code to increase the retirement salaries of certain retired judges;

H.R. 10823. An act relating to credit life insurance and credit health and accident insurance with respect to student loans;

H.R. 11087. An act to amend the District of Columbia Income and Franchise Tax Act

of 1947, as amended, and the District of Columbia Business Corporation Act, as amended, with respect to certain foreign corporations;

H.R. 14205. An act to declare the Old Georgetown Market a historic landmark and to require its preservation and continued use as a public market, and for other purposes; and

H.R. 14904. An act to revise postal rates on certain fourth-class mail, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3105) entitled "An act to authorize certain construction at military installations, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the bill S. 2263 entitled "An act to establish a traffic branch of the District of Columbia court of general sessions and to provide for the appointment to such court of five additional judges" with amendments in which concurrence of the House is requested.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1607. An act to amend the act of September 13, 1962, authorizing the establishment of the Point Reyes National Seashore in the State of California, and for other purposes;

S. 2535. An act to amend the act of March 1, 1933 (47 Stat. 1418), entitled "An act to permanently set aside certain lands in Utah as an addition to the Navajo Indian Reservation, and for other purposes";

S. 3178. An act to amend section 8 of the Taylor Grazing Act of June 28, 1934 (43 U.S.C. 315g);

S. 3198. An act to amend section 402 of the Federal Aviation Act of 1958;

S. 3261. An act to authorize the Secretary of the Interior to convey certain lands in the State of Maine to the Mount Desert Island Regional School District; and

S. 3460. An act to authorize the Secretary of the Interior to enter into contracts for scientific and technological research, and for other purposes.

TO AUTHORIZE THE PRINTING OF ADDITIONAL COPIES OF HOUSE DOCUMENT NO. 96, 86TH CONGRESS

Mr. HAYS. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 930 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 930

Resolved, That there shall be printed an additional twelve thousand copies of House Document Numbered 96 of the Eighty-sixth Congress in the style and format directed by

the Joint Committee on Printing. All of such copies shall be for the use of the House of Representatives.

The SPEAKER. The gentleman from Ohio is recognized for 1 hour.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. HAYS. I yield to the distinguished minority leader.

Mr. GERALD R. FORD. Would the gentleman from Ohio indicate what is involved in this resolution?

Mr. HAYS. The resolution came from the Committee on House Administration unanimously. It has been cleared with the ranking Member on the other side.

This particular resolution is to reprint 12,000 copies of Washington's Farewell Address, for use of the Members of the House.

Mr. GERALD R. FORD. Mr. Speaker, I withdraw my reservation.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

TO AUTHORIZE PRINTING OF HEARINGS OF THE COMMITTEE ON PUBLIC WORKS ENTITLED "RELATIONSHIP OF TOLL FACILITIES TO THE FEDERAL AID HIGHWAY PROGRAM"

Mr. HAYS. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 966 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 966

Resolved, That there be printed, concurrently with the initial printing of the hearings of the Special Subcommittee on the Federal Aid Highway Program and the Subcommittee on Roads of the Committee on Public Works entitled "Relationship of Toll Facilities to the Federal Aid Highway Program", seven hundred additional copies for the use of said committee.

The resolution was agreed to.

A motion to reconsider was laid on the table.

TO AUTHORIZE PRINTING OF PART III OF THE HEARINGS OF THE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS ENTITLED "DRUG SAFETY"

Mr. HAYS. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 971 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 971

Resolved, That there be printed, concurrently with the initial printing of part III of the hearings of the Subcommittee on Intergovernmental Relations of the Committee on Government Operations entitled "Drug Safety", one thousand additional copies for the use of said committee.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REQUEST TO TRANSFER CONSENT CALENDAR AND SUSPENSIONS

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the call of the Consent Calendar and the consideration of motions to suspend the rules in order for Monday, September 5, 1966, may be transferred to Tuesday, September 6, 1966.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. GROSS. Mr. Speaker, reserving the right to object, I wonder if we might have some idea of the bills to be put on the Suspension Calendar. We know what the Consent Calendar bill will be.

Mr. ALBERT. Mr. Speaker, if the gentleman will yield, I do not have a list of requests. In fact, I do not think I have a request on my desk yet. The Speaker, of course, will get the requests first, and it is the Speaker's prerogative to recognize Members for suspension of the rules. I cannot answer the gentleman's question. The only reason why we are asking for this is to enable us to take off on Labor Day.

Mr. GROSS. I understand. I understand perfectly the reason for the request. However, I would still like, if it is possible under the parliamentary situation, to obtain a list of bills that it is proposed to bring up under suspension.

Mr. ALBERT. Of course I am not in a position to give a list to the gentleman. If I tried to do so I would be encroaching on the Speaker's prerogatives. We will put the list on the whip notice of course.

Mr. GROSS. Will the gentleman not divide his unanimous-consent request; and renew the request later in the week with respect to suspensions?

Mr. ALBERT. I will renew the request later in the week, I will say to the gentleman, but as far as the Consent Calendar is concerned and the suspension of the rules, they have historically come on the same legislative day.

Mr. GROSS. I understand that, Mr. Speaker, I will say to the distinguished majority leader, but I wish that he would divide his request at this time.

Mr. ALBERT. If the gentleman will yield, the gentleman does not want the majority leader to agree to any proposition that would in any way impair the prerogatives of the Speaker of the House, does he?

Mr. GROSS. Nor do I want the distinguished majority leader to impair my right to knowledge of the business to be transacted by the House. If it is possible to get that information, I will say to the gentleman, I would like to have it.

Mr. ALBERT. It is not possible at this time, I will say to the gentleman.

Mr. GROSS. Would the gentleman not make his unanimous-consent request with respect to the Consent Calendar, and then withhold his unanimous-consent request with respect to the suspensions?

Mr. ALBERT. I am sorry. There would be little point in calling the Consent Calendar unless we could also dispose of bills under the suspension of the rules. What we are trying to do is to adjourn over until after Labor Day.

Mr. GROSS. Does the gentleman mean to say that the bills on the Consent Calendar will be called and all of them would be privileged to be called under suspension if objected to?

Mr. ALBERT. Well, of course, that would be one thing, but I would not feel I should make a request to separate the two, let me say. Not at this time.

Mr. GROSS. Then, Mr. Speaker, not at this time can I grant unanimous consent to the request of the gentleman, and therefore I object.

The SPEAKER. Objection is heard.

FAIR LABOR STANDARDS ACT OF 1938

Mr. POWELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from New York?

The Chair hears none, and appoints the following conferees: Messrs. POWELL, HOLLAND, O'HARA of Michigan, DENT, PUCINSKI, DANIELS, AYRES, BELL, and GOOD-ELL.

TO AMEND THE CONSOLIDATED FARMERS HOME ADMINISTRATION ACT OF 1961

Mr. POAGE. Mr. Speaker, I ask unanimous consent that the Committee of the Whole House on the State of the Union be discharged from further consideration of the bill (H.R. 15951) to amend the Consolidated Farmers Home Administration Act of 1961 to authorize loans by the Secretary of Agriculture on leasehold interests in Hawaii, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. POAGE]?

Mr. HALL. Mr. Speaker, reserving the right to object, I would like to know if this establishes a precedent that might be used in other States of the Union insofar as land on which such loans can be made that are not owned outright by the individual?

Mr. POAGE. Mr. Speaker, will the gentleman yield?

Mr. HALL. Of course I am delighted to yield to the gentleman from Texas.

Mr. POAGE. Mr. Speaker, I believe it

is fair to say that this does not establish a new precedent. Actually, Mr. Speaker, the Veterans' Administration and the Federal Housing Authority are both doing this in Hawaii now. But I would want to follow that by saying to the gentleman from Missouri that the Committee on Agriculture did not feel that it is a good policy, and that is the reason for our proceeding in this manner.

Mr. Speaker, if the gentleman will read the first four lines of the committee amendment, the gentleman will find that that is the purpose of that language. We felt it was not a good policy. That is why we provide that this authority should exist for only for the period commencing with the date of enactment of this bill and ending on June 30, 1968.

Now, Mr. Speaker, the purpose for that limitation is that these loans will be made during the next year and a half during which time it is anticipated that a particular piece of land will be sold under these terms as being made available by the Kaiser interests for settlement of a number of farmers. We cannot hold the option on this property any longer than the first of the month. That is the reason we are working with them in an effort to bring this up at this time. It is what we conceive to be a very advantageous contract, and the terms of it will expire the first of the month unless we accept the option by that date.

Mr. HALL. Mr. Speaker, the gentleman from Texas in his response has answered, in advance, some of my questions which I had in mind propounding under my reservation. However, I would like to know further, Mr. Speaker, if Mr. Kaiser is being reimbursed for these lands that he is making available?

Mr. Speaker, as I understand it, in talking with the distinguished Representative from Hawaii this is for a 75-year period. Is he being reimbursed for this leasehold?

Mr. POAGE. Mr. Speaker, if the gentleman will yield further; yes, we are buying the land from Mr. Kaiser; but at what is conceived to be a much lower price than its present value. We are buying the leasehold interest which he holds, which I understand is for a period of 55 years.

Mr. HALL. Mr. Speaker, I understand further that this applies only to the island of Oahu in the great State of Hawaii?

Mr. POAGE. Mr. Speaker, if the gentleman from Missouri will yield further, that is correct so far as this option is concerned.

Mr. HALL. Mr. Speaker, are these applicants who have been doing such a good job of farming, as I understand it from discussing it with the gentleman from Hawaii, being asked, in addition to the three stipulations which appear on page 1 of the report—and I have read all of the report, including the unfavorable departmental report—under the paragraph entitled "Purpose," of the report being asked to establish actual collateral for the loan?

Mr. POAGE. Mr. Speaker, if the gentleman will yield further; yes, they definitely are. Of course, the purpose of this is to allow the 55-year lease which is worth considerably more than the

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
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HIGHLIGHTS: House received conference report on labor standards bill. House passed bill to authorize USDA to hold prepayments on FHA loans.

HOUSE - September 2

1. LOANS; INTEREST RATES. Rep. Patman spoke in favor of H. R. 14026, his bill to provide an interest-rate ceiling on time deposits. pp. 20962-5
2. CHILD NUTRITION. Rep. Stratton inserted and commended an article favoring the child nutrition bill. p. 20968

HOUSE - September 6

3. LOANS; INTEREST RATES. Passed without amendment H. R. 15510, to authorize this Department to hold prepayments made to the Secretary by insured-loan borrowers and to transmit them to the holder of the note in installments as they become due. p. 20812
Passed without amendment S. J. Res. 178, to delete the interest-rate limitation on debentures issued by Federal intermediate credit banks. pp. 20812-3
Rep. Patman and others discussed his interest-rate bill, H. R. 14026. pp. 20809, 20860-1, 20866-71
Rep. Findley recommended various steps to aid financing for housing. p. 20863
Rep. Widnall criticized the participation sales program. pp. 20864-5
4. HIDE EXPORTS. Rep. Edmondson criticized export controls on cattle hides. p. 20811
5. RECLAMATION. Agreed to the conference report on S. 254, to authorize the Tualatin reclamation project, Oreg. pp. 20811-12
6. SUPERGRADES. Conferees were appointed on S. 2393, to authorize additional super-grade positions. Senate conferees have been appointed. p. 20812
7. CONTRACTS. Discussed and, at Rep. Pelly's request, passed over H. R. 4497, to require certain contractors with the U. S. to give an affidavit with respect to payment of subcontractors. pp. 20822-3
8. LABOR STANDARDS. Received the conference report on H. R. 13712, to amend the Fair Labor Standards Act so as to increase the minimum wage, add various groups including agricultural workers, strengthen overtime provisions, etc. (H. Rept. 2004). pp. 20825-31
9. RIVER BASIN. Passed under suspension of the rules H. R. 13508, to direct the Interior Department to cooperate with N. Y. and N. J. on a program to develop, preserve, and restore the resources of the Hudson River. pp. 20846-54
10. REDWOOD PARK. Received from the Interior Department a proposed bill to preserve the trees in the proposed Redwood National Park until Congress has had an opportunity to determine whether the park should be established. To Interior and Insular Affairs Committee. p. 20880
11. ALASKA LANDS. Passed without amendment S. 2366, to make less restrictive the act dealing with sale and exchange of the 122,000 acres of land which were granted to Alaska for the State Agricultural College and School of Mines. This bill will now be sent to the President. pp. 20813-4
12. WATER RESOURCES. Discussed and, at Rep. Gross' request, passed over S. 2287, to require the Interior Department to investigate the water resources of the Delmarva Peninsula. pp. 20817-8
13. LEGISLATIVE PROGRAM. Rep. Patman announced that his interest-rate bill will be considered today (p. 20809). Rep. Boggs announced that the labor standards bill will also be considered today (p. 20810).

FAIR LABOR STANDARDS AMENDMENTS OF 1966

SEPTEMBER 6, 1966.—Ordered to be printed

Mr. POWELL, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 13712]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: *That this Act may be cited as the "Fair Labor Standards Amendments of 1966".*

TITLE I—DEFINITIONS

TIPS

SEC. 101. (a) Section 3(m) of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new sentence: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 per centum of the applicable minimum wage rate, except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount."

(b) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

“(t) ‘Tipped employee’ means any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips.’

DEFINITION OF ENTERPRISE

SEC. 102. (a) Section 3(r) of such Act is amended by adding at the end thereof the following: “For purposes of this subsection, the activities performed by any person or persons—

“(1) in connection with the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, an elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit), or

“(2) in connection with the operation of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit),

shall be deemed to be activities performed for a business purpose.”

(b) Section 3(d) of such Act is amended by inserting after “of a State” the following: “(except with respect to employees of a State, or a political subdivision thereof, employed (1) in a hospital, institution, or school referred to in the last sentence of subsection (r) of this section, or (2) in the operation of a railway or carrier referred to in such sentence)”.

(c) Section 3(s) of such Act is amended to read as follows:

“(s) ‘Enterprise engaged in commerce or in the production of goods for commerce’ means an enterprise which has employees engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person, and which—

“(1) during the period February 1, 1967, through January 31, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than \$500,000 (exclusive of excise taxes at the retail level which are separately stated) or is a gasoline service establishment whose annual gross volume of sales is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated), and beginning February 1, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated);

“(2) is engaged in laundering, cleaning, or repairing clothing or fabrics;

“(3) is engaged in the business of construction or reconstruction, or both; or

“(4) is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, an elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit).

Any establishment which has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection."

(d) Section 3 of such Act is amended by adding after subsection (u) (added by section 103(b) of this Act) the following new subsections:

"(v) 'Elementary school' means a day or residential school which provides elementary education, as determined under State law.

"(w) 'Secondary school' means a day or residential school which provides secondary education, as determined under State law."

AGRICULTURAL EMPLOYEES

SEC. 103. (a) Section 3(e) of such Act is amended to read as follows:

"(e) 'Employee' includes any individual employed by an employer, except that such term shall not, for the purposes of section 3(u) include—

"(1) any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family, or

"(2) any individual who is employed by an employer engaged in agriculture if such individual (A) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (B) commutes daily from his permanent residence to the farm on which he is so employed, and (C) has been employed in agriculture less than thirteen weeks during the preceding calendar year."

(b) Section 3 of such Act is further amended by adding after subsection (t) (added by section 101(b) of this Act) the following new subsection:

"(u) 'Man-day' means any day during which an employee performs any agricultural labor for not less than one hour."

TITLE II—REVISION OF EXEMPTIONS

HOTEL, RESTAURANT, AND RECREATIONAL ESTABLISHMENTS; HOSPITALS AND RELATED INSTITUTIONS

SEC. 201. (a) Section 13(a)(2) of such Act is amended by striking out everything preceding "A 'retail or service establishment'" and inserting in lieu thereof the following:

"(2) any employee employed by any retail or service establishment (except an establishment or employee engaged in laundering, cleaning, or repairing clothing or fabrics or an establishment engaged in the operation of a hospital, institution, or school described in section 3(s)(4)), if more than 50 per centum of such establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, and such establishment is not in an enterprise described in section 3(s) or such establishment has an annual dollar volume of sales which is less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated)."

(b)(1) Section 13(b) of such Act is amended by inserting after paragraph (7) the following new paragraph in lieu of the paragraph repealed by section 211 of this Act:

"(8) any employee employed by an establishment which is a hotel, motel, or restaurant; or any employee who (A) is employed by an establishment which is an institution (other than a hospital) primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises, and (B) receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or".

(2) Section 13(a) of such Act is amended by inserting after paragraph (2) the following new paragraph in lieu of the paragraph repealed by section 202 of this Act:

"(3) any employee employed by an establishment which is an amusement or recreational establishment, if (A) it does not operate for more than seven months in any calendar year, or (B) during the preceding calendar year, its average receipts for any six months of such year were not more than $33\frac{1}{3}$ per centum of its average receipts for the other six months of such year; or".

LAUNDRY AND CLEANING ESTABLISHMENTS

SEC. 202. Section 13(a)(3) of such Act is repealed.

AGRICULTURAL EMPLOYEES

SEC. 203. (a) Section 13(a)(6) of such Act is amended to read as follows:

"(6) any employee employed in agriculture (A) if such employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred man-days of agricultural labor, (B) if such employee is the parent, spouse, child, or other member of his employer's immediate family, (C) if such employee (i) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) commutes daily from his permanent residence to the farm on which he is so employed, and (iii) has been employed in agriculture less than thirteen weeks during the preceding calendar year, (D) if such employee (other than an employee described in clause (C) of this subsection) (i) is sixteen years of age or under and is employed as a hand harvest laborer, is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) is employed on the same farm as his parent or person standing in the place of his parent, and (iii) is paid at the same piece rate as employees over age sixteen are paid on the same farm, or (E) if such employee is principally engaged in the range production of livestock; or".

(b) Section 13(a)(16) of such Act (agricultural employees employed in livestock auctions) is repealed.

(c) Section 13(b) of such Act is amended—

(A) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; or", and

(B) by adding at the end of paragraph (11) the following new paragraphs:

"(12) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

"(13) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (A) is primarily employed during his workweek in agriculture by such farmer, and (B) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a)(1); or".

(d) Section 13(c) of such Act is amended to read as follows:

"(c)(1) Except as provided in paragraph (2), the provisions of section 12 relating to child labor shall not apply with respect to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed.

"(2) The provisions of section 12 relating to child labor shall apply to an employee below the age of sixteen employed in agriculture in an occupation that the Secretary of Labor finds and declares to be particularly hazardous for the employment of children below the age of sixteen, except where such employee is employed by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person.

"(3) The provisions of section 12 relating to child labor shall not apply to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions."

AGRICULTURAL PROCESSING EMPLOYEES

SEC. 204. (a) Sections 13 (a)(10) (employees engaged in handling and processing of agricultural, horticultural, and dairy products); 13 (a) (17) (country elevator employees); 13 (a) (18) (cotton ginning employees); and 13(a)(22) (fruit and vegetable transportation employees) of such Act are repealed.

(b) Section 13(b) of such Act is amended by adding after paragraph (13) (added by section 203(c) of this Act) the following new paragraphs:

"(14) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed in the establishment in such operations; or

"(15) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities, or in the processing of sugar beets, sugar-beet molasses, sugarcane, or maple sap, into sugar (other than refined sugar) or syrup; or

"(16) any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any

point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables; or”.

(c) Subsection (c) of section 7 of such Act is amended to read as follows:

“(c) For a period or periods of not more than ten workweeks in the aggregate in any calendar year, or fourteen workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (d) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection if such employee (1) is employed by such employer in an industry found by the Secretary to be of a seasonal nature, and (2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment by such employer in excess of fifty hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

“(d) For a period or periods of not more than ten workweeks in the aggregate in any calendar year, or fourteen workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (c) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection, if such employee—

“(1) is employed by such employer in an enterprise which is in an industry found by the Secretary—

“(A) to be characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of agricultural or horticultural commodities from farms if such industry is engaged in the handling, packing, preparing, storing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, or

“(B) to be of a seasonal nature and engaged in the handling, packing, storing, preparing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, and

“(2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.”

(d)(1) Subsections (d), (e), (f), (g), and (h) of section 7 of such Act are redesignated as subsections (e), (f), (g), (h), and (i), respectively.

(2) Subsections (g) and (h) of such section 7 (as so redesignated by paragraph (1) of this subsection) are each amended by striking out “subsection (d)” and inserting in lieu thereof “subsection (e)”.

SMALL NEWSPAPERS

SEC. 205. Section 13(a)(8) of such Act is amended by striking out “where printed and published” and inserting in lieu thereof “where published”.

TRANSPORTATION COMPANIES

SEC. 206. (a) Section 13(a)(9) of such Act is repealed.

(b)(1) Section 13(a)(12) of such Act is repealed.

(2) Section 13(b) of such Act is amended by adding after paragraph (16) (added by section 204(b) of this Act) the following new paragraph:

"(17) any driver employed by an employer engaged in the business of operating taxicabs; or".

(c) Section 13(b)(7) of such Act is amended to read as follows:

"(7) any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency; or".

MOTION PICTURE THEATER EMPLOYEES

SEC. 207. Section 13(a) of such Act is amended by inserting after paragraph (8) the following new paragraph in lieu of the paragraph repealed by section 206(a) of this Act:

"(9) any employee employed by an establishment which is a motion picture theater; or".

LOGGING CREWS

SEC. 208. Section 13(a)(15) of such Act is amended by striking out "twelve" and inserting in lieu thereof "eight".

AUTOMOBILE, AIRCRAFT, AND FARM IMPLEMENT SALES ESTABLISHMENTS

SEC. 209. (a) Section 13(a)(19) of such Act is repealed.

(b) Section 13(b) of such Act is amended by inserting after paragraph (9) the following new paragraph in lieu of the paragraph repealed by section 212(a) of this Act:

"(10) any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles, trailers, trucks, farm implements, or aircraft if employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles to ultimate purchasers; or".

FOOD SERVICE AND BOWLING ESTABLISHMENT EMPLOYEES

SEC. 210. (a) Section 13(a)(20) of such Act is repealed.

(b) Section 13(b) of such Act is amended by adding after paragraph (17) (added by section 206(b)(2) of this Act) the following new paragraphs:

"(18) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs; or

"(19) any employee of a bowling establishment if such employee receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed."

GASOLINE SERVICE STATIONS

SEC. 211. Section 13(b)(8) of such Act is repealed.

PETROLEUM DISTRIBUTION EMPLOYEES

SEC. 212. (a) Section 13(b)(10) of such Act is repealed.

(b) Section 7(b)(3) of such Act is amended to read as follows:

“(3) by an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if—

“(A) the annual gross volume of sales of such enterprise is less than \$1,000,000 exclusive of excise taxes,

“(B) more than 75 per centum of such enterprise’s annual dollar volume of sales is made within the State in which such enterprise is located, and

“(C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale, and such employee receives compensation for employment in excess of forty hours in any workweek at a rate not less than one and one-half times the minimum wage rate applicable to him under section 6,”.

ENIWETOK AND KWAJALEIN ATOLLS AND JOHNSTON ISLAND

SEC. 213. Section 13(f) of such Act is amended by striking out “and the Canal Zone” and inserting in lieu thereof “Eniwetok Atoll; Kwajalein Atoll; Johnston Island; and the Canal Zone”.

ELEMENTARY AND SECONDARY SCHOOL TEACHERS AND SCHOOL ADMINISTRATIVE PERSONNEL

SEC. 214. Section 13(a)(1) of such Act is amended by inserting after “professional capacity” the following: “(including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools)”.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 215. (a) Section 3(n) of such Act is amended by striking out “, except as used in subsection (s)(1),”.

(b) Section 13(a) of such Act is amended—

(1) by redesignating paragraphs (11), (13), (14), (15), and (21) as paragraphs (10), (11), (12), (13), and (14), respectively, and

(2) by striking out “; or” at the end of paragraph (14) (as so redesignated in this subsection) and inserting in lieu thereof a period.

(c) Paragraph (7) of section 13(a) of such Act is amended by striking out “or order” and inserting in lieu thereof “, order, or certificate”.

TITLE III—INCREASE IN MINIMUM WAGE

PRESENTLY COVERED EMPLOYEES

SEC. 301. (a) Section 6(a) of such Act is amended by amending that portion of the section preceding paragraph (2) to read as follows:

“(a) Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates:

“(1) not less than \$1.40 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966 and not less than \$1.60 an hour thereafter, except as otherwise provided in this section;”.

(b) Such section is amended by striking out the period at the end of paragraph (3) and inserting a semicolon, and by adding the following new paragraph:

“(4) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement); or”.

AGRICULTURAL EMPLOYEES

SEC. 302. Section 6(a) of such Act is amended by adding after paragraph (4) (added by section 301(b) of this Act) the following new paragraph:

“(5) if such employee is employed in agriculture, not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during the second year from such date, and not less than \$1.30 an hour thereafter.”

NEWLY COVERED EMPLOYEES

SEC. 303. Section 6(b) of such Act is amended to read as follows:

“(b) Every employer shall pay to each of his employees (other than an employee to whom subsection (a)(5) applies) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this section by the amendments made to this Act by the Fair Labor Standards Amendments of 1966, wages at the following rates:

“(1) not less than \$1 an hour during the first year from the effective date of such amendments,

“(2) not less than \$1.15 an hour during the second year from such date,

“(3) not less than \$1.30 an hour during the third year from such date,

“(4) not less than \$1.45 an hour during the fourth year from such date, and

“(5) not less than \$1.60 an hour thereafter.”

EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 304. Section 6(c) of such Act is amended to read as follows:

"(c) (1) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5.

"(2) In the case of any such employee who is covered by such a wage order and to whom the rate or rates prescribed by subsection (a) would otherwise apply, the following rates shall apply:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, increased by 12 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1966 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) Beginning one year after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 16 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

"(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1966 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

“(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

“(3) In the case of any such employee to whom subsection (a)(5) or subsection (b) would otherwise apply, the Secretary shall within sixty days after the effective date of the Fair Labor Standards Amendments of 1966 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 8, but not in excess of the applicable rate provided by subsection (a)(5) or subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (a)(5) or subsection (b), as the case may be. The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1966.

“(4) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee.”

CONTRACT SERVICES TO FEDERAL GOVERNMENT

SEC. 305. Section 6 of such Act is amended by adding at the end thereof the following new subsection:

“(e)(1) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof), every employer providing any contract services (other than linen supply services) under a contract with the United States or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract

Act of 1965 (41 U.S.C. 351-357) or to whom subsection (a)(1) of this section is not applicable, wages at rates not less than the rates provided for in subsection (b) of this section.

"(2) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof) and the provisions of the Service Contract Act of 1965, every employer in an establishment providing linen supply services to the United States under a contract with the United States or any subcontract thereunder shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (b), except that if more than 50 per centum of the gross annual dollar volume of sales made or business done by such establishment is derived from providing such linen supply services under any such contracts or subcontracts, such employer shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (a)(1) of this section."

FEDERAL EMPLOYEES

SEC. 306. Section 18 of such Act is amended by inserting "(a)" immediately after "SEC. 18." and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this Act (other than section 13(f)) or any other law, any employee—

"(1) described in paragraph (7) of section 202 of the Classification Act of 1949 (5 U.S.C. 1082(7)) whose compensation is required to be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates, and any Federal employee in the Canal Zone engaged in employment of the kind described in such paragraph (7), or

"(2) described in section 7474 of title 10, United States Code, whose rates of wages are established to conform, as nearly as is consistent with the public interest, with those of private establishments in the immediate vicinity, or

"(3) employed in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces, shall have his basic compensation fixed or adjusted at a wage rate which is not less than the appropriate wage rate provided for in section 6(a)(1) of this Act (except that the wage rate provided for in section 6(b) shall apply to any employee who performed services during the workweek in a work place within the Canal Zone), and shall have his overtime compensation set at an hourly rate not less than the overtime rate provided for in section 7(a)(1) of this Act."

TITLE IV—APPLICATION OF MAXIMUM HOURS PROVISIONS

PRESENTLY AND NEWLY COVERED EMPLOYEES

SEC. 401. Section 7(a) of such Act is amended to read as follows:

"(a) (1) Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives

compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

“(2) No employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this subsection by the amendments made to this Act by the Fair Labor Standards Amendments of 1966—

“(A) for a workweek longer than forty-four hours during the first year from the effective date of the Fair Labor Standards Amendments of 1966,

“(B) for a workweek longer than forty-two hours during the second year from such date, or

“(C) for a workweek longer than forty hours after the expiration of the second year from such date, unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.”

COMMISSION SALESMAN

SEC. 402. Subsection (i) of section 7 of such Act (as so redesignated by section 204(d) of this Act) is amended by adding at the end thereof the following new sentence: “In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.”

HOSPITAL EMPLOYEES

SEC. 403. Section 7 of such Act is amended by adding after subsection (i) of such section (as so redesignated by section 204(d)(1) of this Act) the following new subsection:

“(j) No employer engaged in the operation of a hospital shall be deemed to have violated subsection (a) if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of fourteen consecutive days is accepted in lieu of the workweek of seven consecutive days for purposes of overtime computation and if, for his employment in excess of eight hours in any workday and in excess of eighty hours in such fourteen-day period, the employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed.”

TITLE V—STUDENTS AND HANDICAPPED WORKERS

STUDENTS AND HANDICAPPED WORKERS

SEC. 501. Section 14 of such Act is amended to read as follows:

“LEARNERS, APPRENTICES, STUDENTS, AND HANDICAPPED WORKERS

“SEC. 14. (a) The Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for the employment of learners, of apprentices, and

of messengers employed primarily in delivering letters and messages, under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe.

“(b) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment of full-time students, regardless of age but in compliance with applicable child labor laws, on a part-time basis in retail or service establishments (not to exceed twenty hours in any workweek) or on a part-time or a full-time basis in such establishments during school vacations, under special certificates issued pursuant to regulations of the Secretary, at a wage rate not less than 85 per centum of the minimum wage applicable under section 6, except that the proportion of student hours of employment to total hours of employment of all employees in any establishment may not exceed (1) such proportion for the corresponding month of the twelve-month period preceding May 1, 1961, (2) in the case of a retail or service establishment whose employees (other than employees engaged in commerce or in the production of goods for commerce) are covered by this Act for the first time on or after the effective date of the Fair Labor Standards Amendments of 1966, such proportion for the corresponding month of the twelve-month period immediately prior to such date, or (3) in the case of a retail or service establishment coming into existence after May 1, 1961, or a retail or service establishment for which records of student hours worked are not available, a proportion of student hours of employment to total hours of employment of all employees based on the practice during the twelve-month period preceding May 1, 1961, in (A) similar establishments of the same employer in the same general metropolitan area in which the new establishment is located, (B) similar establishments of the same employer in the same or nearby counties if the new establishment is not in a metropolitan area, or (C) other establishments of the same general character operating in the community or the nearest comparable community. Before the Secretary may issue a certificate under this subsection he must find that such employment will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under this subsection.

“(c) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by certificate or order provide for the employment of full-time students, regardless of age but in compliance with applicable child labor laws, on a part-time basis in agriculture (not to exceed twenty hours in any workweek) or on a part-time or a full-time basis in agriculture during school vacations, at a wage rate not less than 85 per centum of the minimum wage applicable under section 6. Before the Secretary may issue a certificate or order under this subsection he must find that such employment will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under this subsection.

“(d)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, the Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment under special certificates of individuals (including individuals employed in agriculture) whose earning or productive capacity is impaired by age or physical or mental deficiency or injury, at wages which are lower than the minimum wage applicable

under section 6 of this Act but not less than 50 per centum of such wage and which are commensurate with those paid nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work.

“(2) The Secretary, pursuant to such regulations as he shall prescribe and upon certification of the State agency administering or supervising the administration of vocational rehabilitation services, may issue special certificates for the employment of—

“(A) handicapped workers engaged in work which is incidental to training or evaluation programs, and

“(B) multihandicapped individuals and other individuals whose earning capacity is so severely impaired that they are unable to engage in competitive employment, at wages which are less than those required by this subsection and which are related to the worker’s productivity.

“(3)(A) The Secretary may by regulation or order provide for the employment of handicapped clients in work activities centers under special certificates at wages which are less than the minimums applicable under section 6 of this Act or prescribed by paragraph (1) of this subsection and which constitute equitable compensation for such clients in work activities centers.

“(B) For purposes of this section, the term ‘work activities centers’ shall mean centers planned and designed exclusively to provide therapeutic activities for handicapped clients whose physical or mental impairment is so severe as to make their productive capacity inconsequential.”

TITLE VI—MISCELLANEOUS

STATUTE OF LIMITATIONS

SEC. 601. (a) Section 16(c) of such Act is amended by striking out “two-year statute” and by inserting in lieu thereof “statutes”.

(b) Section 6(a) of the Portal-to-Portal Act of 1947 (Public Law 49, Eightieth Congress) is amended by inserting before the semicolon at the end thereof the following: “, except that a cause of action arising out of a willful violation may be commenced within three years after the cause of action accrued”.

EFFECTIVE DATE

SEC. 602. Except as otherwise provided in this Act, the amendments made by this Act shall take effect on February 1, 1967. On and after the date of the enactment of this Act the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

STUDY OF EXCESSIVE OVERTIME

SEC. 603. The Secretary of Labor is hereby instructed to commence immediately a complete study of present practices dealing with overtime payments for work in excess of forty hours per week and the extent to which such overtime work impedes the creation of new job opportunities in American industry. The Secretary is further instructed to report to the Congress by July 1, 1967, the findings of such survey with appropriate recommendations.

CANAL ZONE EMPLOYEES AND PANAMA CANAL STUDY

SEC. 604. *The Secretary of Labor, in cooperation with the Secretary of Defense and the Secretary of State, shall (1) undertake a study with respect to (A) wage rates payable to Federal employees in the Canal Zone engaged in employment of the kind described in paragraph (7) of section 202 of the Classification Act of 1949 (5 U.S.C. 1082(7)) and (B) the requirements of an effective and economical operation of the Panama Canal, and (2) report to the Congress not later than July 1, 1968, the results of his study together with such recommendations as he may deem appropriate.*

STUDY OF WAGES PAID HANDICAPPED CLIENTS IN SHELTERED WORKSHOPS

SEC. 605. *The Secretary of Labor is hereby instructed to commence immediately a complete study of wage payments to handicapped clients of sheltered workshops and of the feasibility of raising existing wage standards in such workshops. The Secretary is further instructed to report to the Congress by July 1, 1967, the findings of such study with appropriate recommendations.*

PREVENTION OF DISCRIMINATION BECAUSE OF AGE

SEC. 606. *The Secretary of Labor is hereby directed to submit to the Congress not later than January 1, 1967 his specific legislative recommendations for implementing the conclusions and recommendations contained in his report on age discrimination in employment made pursuant to section 715 of Public Law 88-352. Such legislative recommendations shall include, without limitation, provisions specifying appropriate enforcement procedures, a particular administering agency, and the standards, coverage, and exemptions, if any, to be included in the proposed enactment.*

And the Senate agree to the same.

ADAM POWELL,
ELMER HOLLAND,
JAMES G. O'HARA,
JOHN H. DENT,
ROMAN C. PUCINSKI,
DOMINICK V. DANIELS,
ALPHONZO BELL,

Managers on the Part of the House.

RALPH W. YARBOROUGH,
WAYNE MORSE,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
ROBERT KENNEDY,
HARRISON WILLIAMS,
J. JAVITS,
WINSTON L. PROUTY,
ROBT. P. GRIFFIN,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees to raise the minimum wage, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate struck out all of the House bill after the enacting clause and inserted a substitute amendment. The committee of conference has agreed to a substitute for both the House bill and the Senate amendment. Except for technical, clarifying, and conforming changes the following statement explains the differences between the House bill and the substitute agreed to in conference.

Tips

Section 101 of the House bill provided that the wage paid a tipped employee is to be treated as increased on account of tips by an amount determined by his employer which may not exceed 45 percent of the applicable minimum wage. The Senate amendment in a similar provision provided that the amount by which a tipped employee's wage was to be increased on account of tips was not to exceed 50 percent of the applicable minimum wage.

The conference substitute conforms to the Senate amendment.

Elementary and secondary schools

Section 102 of the House bill contained a provision not included in the Senate amendment which provided that public, and private elementary and secondary schools would be considered "enterprises engaged in commerce or in the production of goods for commerce." Thus, the minimum wage and overtime coverage of the act would extend to the employees of such schools, except for those employees who would be exempt from such coverage under section 13(a) or 13(b) of the act.

The conference substitute conforms to the House bill. Section 13(a)(1) of the act which provides an exemption from minimum wage and overtime coverage for persons employed in an administrative or professional capacity was amended to make it clear that teachers and academic administrative personnel in public or private elementary or secondary schools come within such exemption.

Definition of man-day

In section 103 of the House bill the term "man-day" was defined to mean any day during any portion of which an employee performs any agricultural labor. In the Senate amendment such term was defined to mean any day during which an employee performs any agricultural labor for 1 hour.

The conference substitute provides that such term shall mean any day during which an employee performs agricultural labor for not less than 1 hour.

Overtime exemption for nursing home employees

The Senate amendment contains a provision not contained in the House bill which provides an overtime exemption for nursing home employees.

The conference substitute contains the Senate provision with an amendment requiring compensation for employment in excess of 48 hours in any workweek at a rate not less than 1½ times the regular rate at which each employee is employed.

Minimum wage and overtime exemption for agricultural employees

(1) *Employees under the Sugar Act of 1948.*—Section 203 of the House bill contained a provision not in the Senate amendment which provided an exemption for employees whose wage rates are established by the Secretary of Agriculture under section 301(c)(1) of the Sugar Act of 1948.

The Senate amendment contains no similar provision and none is contained in the conference substitute.

(2) *Hand-harvest laborers, 16 and under and paid on a piece-rate basis.*—The Senate amendment contained a provision not in the House bill which provides an exemption for a hand-harvest laborer, 16 and under and paid on a piece-rate basis, who works on the same farm as his parent and receives the same piece rate as other workers over age 16.

The conference substitute adopts the provision in the Senate amendment.

(3) *Employees engaged in range production of livestock.*—The Senate amendment contained a provision not in the House bill providing a minimum wage and overtime exemption for employees primarily engaged in the range production of livestock.

The conference substitute adopts the provision in the Senate amendment.

Child labor in agriculture

The Senate amendment contained a provision not in the House bill which provides that no employee below the age of 16 may be employed in agriculture in an occupation found by the Secretary to be particularly hazardous for employment of children, except when such employee is employed by his parent on a farm owned or operated by his parent.

The conference substitute contains the Senate provision.

Overtime exemption for sugar processing employees

The Senate amendment contained a provision not in the House bill which provides an overtime exemption for an employee engaged in the processing of sugarbeets, sugarbeet molasses, sugarcane, or maple sap into sugar (other than refined sugar) or sirup.

The conference substitute conforms to the Senate amendment.

Overtime exemption for seasonal industry and agricultural processing employees

Section 204 of the House bill provided a 14-week overtime exemption, limited to 10 hours a day and 48 hours a week, for employees employed in a seasonal industry which is not engaged in agricultural

processing. That section also provided an identical overtime exemption for employees of agricultural processing industries. Thus, no employer will be permitted more than one 14-week overtime exemption in any calendar year. The Senate amendment contained a similar provision which differed from the House provision in the following respects:

(1) Employers in industries which are seasonal and are also engaged in agricultural processing would be permitted an overtime exemption for their employees for a period of 20 workweeks in the aggregate in a calendar year; and

(2) The overtime exemption for employees in seasonal industries was limited to 52 hours in a workweek.

The conference substitute conforms to the Senate amendment, except the overtime exemption for employees in seasonal industries was limited to 50 hours in a workweek.

It was the declared intention of the conferees to give notice that the days of overtime exemptions for employees in the agricultural processing industry are rapidly drawing to a close, because advances in technology are making the continuation of such exemption unjustifiable.

Overtime exemption for partsmen and flight personnel

In section 209 of the House bill an overtime exemption was provided for partsmen of retail automobile, truck, trailer, and farm implement sales establishments and for flight personnel of aircraft sales establishments. The Senate amendment limited the overtime exemption for partsmen to partsmen employed by retail farm implement sales establishments and eliminated such exemption for such flight personnel.

The conference substitute conforms to the House provision regarding partsmen, except that such exemption shall be available only to salesmen, partsmen, and mechanics primarily engaged in selling or servicing such vehicles.

The conference substitute does not provide an overtime exemption for flight personnel in aircraft sales establishments.

Bowling establishment employees

The Senate amendment contained a provision not in the House bill which provides an overtime exemption for employees of a bowling establishment.

The conference substitute contains the Senate provision with an amendment which requires that every employee employed in a bowling establishment receive compensation for employment in excess of 48 hours in any workweek at a rate not less than $1\frac{1}{2}$ times the regular rate at which he is employed.

Effective date of raise in minimum wage for presently covered employees

Section 301 of the House bill provided that the raise in the minimum wage from \$1.40 an hour to \$1.60 an hour for presently covered employees would be effective February 1, 1969. The Senate amendment made such raise effective February 1, 1968.

The conference substitute conforms to the Senate amendment.

Contract services to Federal Government

Section 305 of the House bill provided that an employer providing a contract service (other than laundering and related cleaning services) under a contract with the United States (or any subcontract there-

under) must pay to each of his employees (other than an employee employed in a capacity described in sec. 13(a)(1)) whose rate of pay is not governed by the Service Contract Act of 1965 or section 6(a)(1) of the act (wage rates for presently covered employees) wages at not less than the rate provided in section 6(b) of the act (wage rates for presently covered employees). The wage rate for employees of employers providing laundering or related cleaning services under such a contract was to be not less than that provided in section 6(b) of the act, except that if such employer derived more than 50 percent of his annual business from providing such services under such a contract, the wage rate was to be not less than that provided in section 6(b). The Senate amendment is identical to the House bill except that the minimum wage rate for employees (whose rate of pay is not governed by the Service Contract Act of 1965 or sec. 6(a)(1) of the act) of an employer providing laundering and related cleaning services under such a contract was to be the rate prescribed in section 6(b) of the act.

The conference substitute conforms to the House provision except that "linen supply services" were substituted for "laundering and related cleaning services." It is the intention of the conferees that the amendment made by the conference substitute shall apply only to contracts with the United States (or any subcontractor thereunder) entered into after the effective date of the Fair Labor Standards Amendments of 1966.

Minimum wage rates for Federal wage board employees

Section 306 of the House bill provides that certain Federal wage board employees and employees in nonappropriated fund instrumentalities of the Armed Forces, e.g., post exchanges, must be paid basic compensation at a rate not less than the rate provided in section 6(a)(1) of the act and also must be paid for overtime work at a rate not less than that specified in section 7(a)(1) of the act. This requirement applies only if such employees are employed in the District of Columbia or a State of the United States.

The Senate amendment contains a similar provision which differs from the House provision in the following respects:

- (1) The provision is to apply to employees of naval facilities whose wages are established to conform with those in the immediate vicinity;

- (2) The provision is to apply to employees employed in the jurisdictions in which the act applies; and

- (3) Federal employees in the Canal Zone are to receive compensation at the section 6(b) rate.

The conference substitute conforms to the Senate amendment.

Hospital employees

The Senate amendment contained a provision not in the House bill which permits hospitals to calculate their overtime on a biweekly rather than weekly basis if there is an understanding with the employees that the work period is to be a period of 14 consecutive days. Overtime compensation would have to be paid for hours worked over 8 in a day and 80 in the 14-day work period.

The conference substitute conforms to the Senate amendment.

Minimum wage for handicapped workers

The Senate amendment contained a provision not in the House bill which provides that handicapped workers employed in sheltered

workshops must be paid wages commensurate with those paid non-handicapped workers for essentially the same type, quality, and quantity of work, but not less than 50 percent of the applicable minimum wage. However, the Secretary may issue special certificates for employment at less than the minimum wage in proportion to the worker's productivity where the work is incidental to a training or evaluation program, or under exceptional circumstances where individuals are so severely impaired that they cannot engage in competitive employment. The Secretary is also authorized to establish special rates of compensation for handicapped workers employed in "work activity centers." A "work activity center" means an establishment designed exclusively for workers whose physical or mental handicap is so severe as to make their productive capacity inconsequential.

The conference substitute provides for the employment of handicapped workers, including those employed in agriculture, at wages lower than the minimum wage applicable under section 6, but not less than 50 percent of such wage. Such wages shall be commensurate with wages paid nonhandicapped workers for essentially the same type, quality, and quantity of work. The Secretary, however, may issue special certificates for employment at wages which are less than 50 percent of the minimum wage applicable under section 6, and which are in proportion to the worker's productivity, where the work is incidental to a training or evaluation program or under exceptional circumstances of severe impairment. The Secretary is also authorized to establish special rates of compensation for handicapped workers employed in "work activity centers." A "work activity center" means an establishment designed exclusively for workers whose physical or mental handicap is so severe as to make their productive capacity inconsequential.

Overtime exemption for management trainees

Section 501 of the House bill contains a provision which permits the employment of a limited number of management trainees in a retail or service establishment who are being trained to serve in a bona fide executive or administrative capacity without the payment of overtime compensation for a period not to exceed 18 months.

The Senate amendment contained no similar provision and none is contained in the conference substitute.

Minimum wage rate for new employees

Section 501 of the House bill contained a provision which provides that during the first 6 weeks of full-time employment of an individual under the age of 21 the minimum wage rate for such employee may be 75 percent of the minimum wage rate which would otherwise apply to him.

The Senate amendment contained no similar provision and none is contained in the conference substitute.

Federal wage board employees in Canal Zone: Study

The Senate amendment contained a provision not in the House bill which directs the Secretary of Labor, after consultation with the Secretary of Defense and the Secretary of State, to study the wage rates of Federal wage board employees in the Canal Zone and also the requirements of an effective and economical operation of the Panama Canal. The Secretary of Labor is to report to the Congress

the results of his study, including any recommendations, not later than July 1, 1968.

The conference substitute contains the Senate amendment which requires the Secretary of Labor to transmit such report to the Congress.

Study of wages paid handicapped clients in sheltered workshops

The Senate amendment contained a provision not in the House bill directing the Secretary of Labor to make a study of wages paid handicapped clients in sheltered workshops and of the feasibility of raising existing wage standards in such workshops. The Secretary is to report the results of his study to the Congress no later than July 1, 1967.

The conference substitute adopts the Senate amendment.

Prevention of discrimination because of age

The Senate amendment contained a provision not in the House bill prohibiting discrimination in employment against any person 45 years of age or older because of such person's age.

The conference substitute directs the Secretary of Labor to submit specific legislative recommendations for implementing the conclusions contained in his age discrimination report made pursuant to section 715 of Public Law 88-352.

ADAM POWELL,
ELMER HOLLAND,
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ALPHONZO BELL,

Managers on the Part of the House.



the use of the vessel *John F. Drews* in the coastwise trade while it is owned by a citizen of the United States.

Mr. McEWEN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO REINSTATE A CERTAIN OIL AND GAS LEASE

The Clerk called the bill (H.R. 14754) to direct the Secretary of the Interior to reinstate a certain oil and gas lease.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall reinstate non-competitive public domain oil and gas lease New Mexico 0291835, effective on the date of termination of such lease, upon payment to him, within ninety days after the date of enactment of this Act, of the total of the amount of rental which is unpaid on such lease for the period beginning with the first day of such lease through the date of such payment.

Amend the title so as to read: "A bill to authorize the Secretary of the Interior to reinstate a certain oil and gas lease."

With the following committee amendment:

Strike out all after the enacting clause and insert the following language:

"That the Secretary of the Interior shall receive, consider, and act upon any petition of the lessees of United States oil and gas lease (New Mexico 0291835), filed within one hundred and eighty days after the effective date of this Act, for reinstatement of said lease and may reinstate such lease in accordance with the provisions of section 31(c) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188(c))."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize the Secretary of the Interior to reinstate a certain oil and gas lease."

A motion to reconsider was laid on the table.

MISS RAJKA SODA

The Clerk called the bill (H.R. 8614) for the relief of Miss Rajka Soda.

There being no objection, the Clerk read the bill, as follows:

H.R. 8614

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Rajka Soda may be classified as an eligible orphan within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mrs. Barbara Colich, citizen of the United States, pursuant to section 205(b) of the Act, subject to all the conditions in that section relating to eligible orphans.

With the following committee amendment:

Strike out all after enacting clause and insert in lieu thereof the following:

"That, for the purposes of sections 203 (a) (2) and 204 of the Immigration and Nationality Act, Miss Rajka Soda shall be held and considered to be the natural-born alien daughter of Mrs. Barbara Colich, an alien lawfully admitted to the United States for permanent residence: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. McFALL. Mr. Speaker, I ask unanimous consent that further consideration of the Private Calendar be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CALL OF THE HOUSE

Mr. TALCOTT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 264]

Abbitt	Evans, Colo.	Keogh
Abernethy	Everett	King, Calif.
Adair	Evins, Tenn.	King, N.Y.
Addabbo	Farbstein	Krebs
Albert	Feighan	Laird
Andrews	Findley	Landrum
Glenn	Fino	Leggett
Ashbrook	Fisher	Lennon
Aspinall	Flood	Lipscomb
Bandstra	Flynt	Long, La.
Baring	Fogarty	Long, Md.
Bates	Ford, Gerald R.	McCarthy
Battin	Frelinghuysen	McDowell
Berry	Friedel	McMillan
Blatnik	Fulton, Pa.	McVicker
Bow	Fulton, Tenn.	Macdonald
Bray	Gallagher	Machen
Brock	Garmatz	Mackay
Cabell	Gettys	Madden
Callaway	Gilligan	Martin, Ala.
Cameron	Goodell	Martin, Mass.
Carey	Green, Oreg.	Mathias
Casey	Greigg	May
Celler	Grider	Michel
Clark	Grover	Miller
Clausen	Hagan, Ga.	Morrison
Don H.	Halpern	Mosher
Cohelan	Hanna	Multer
Collier	Hansen, Wash.	Murray
Corbett	Harsha	Nix
Craley	Hays	O'Konski
Curtin	Hébert	O'Neal, Ga.
Davis, Ga.	Herlong	O'Neill, Mass.
de la Garza	Hicks	Pepper
Devine	Hosmer	Pickle
Diggs	Huot	Powell
Dingell	Johnson, Okla.	Price
Dulski	Jones, Ala.	Puchinsk
Duncan, Oreg.	Jones, Mo.	Purcell
Dwyer	Jones, N.C.	Redlin
Edwards, Ala.	Karth	Reid, Ill.
Edwards, La.	Keith	Reifel
Ellsworth	Kelly	Reinecke

Resnick
Rivers, S.C.
Roberts
Rogers, Colo.
Rogers, Tex.
Roncalio
St Germain
St. Onge
Schisler
Scott
Senner
Sickles
Sikes
Smith, Calif.
Smith, Iowa

Steed
Stephens
Stratton
Sweeney
Teague, Calif.
Thompson, Tex.
Todd
Toll
Tupper
Tuten
Ullman
Utt
Van Deerlin
Vigoreto
Waggonner

Walker, Miss.
Watkins
Watts
Whalley
White, Idaho
Williams
Willis
Wilson, Bob
Wilson,
Charles H.
Wolff
Wylder
Zablocki

The SPEAKER pro tempore. On this rollcall 264 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

COMMITTEE ON EDUCATION AND LABOR—AUTHORITY TO FILE CONFERENCE REPORT

Mr. DENT. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor may have until midnight tonight to file a conference report on H.R. 13712, the minimum wage bill. This is done with the knowledge and consent of the ranking minority member, the gentleman from Ohio [Mr. AYRES].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 2004)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "That this Act may be cited as the 'Fair Labor Standards Amendments of 1966'."

"TITLE—DEFINITIONS

"Tips

"SEC. 101. (a) Section 3(m) of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new sentence: 'In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 per centum of the applicable minimum wage rate, except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount.'

"(b) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"(t) 'Tipped employee' means any em-

ployee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips.'

"Definition of enterprise"

"SEC. 102. (a) Section 3(r) of such Act is amended by adding at the end thereof the following: 'For purposes of this subsection, the activities performed by any person or persons—

"(1) in connection with the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, an elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit), or

"(2) in connection with the operation of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), shall be deemed to be activities performed for a business purpose.'

"(b) Section 3(d) of such Act is amended by inserting after 'of a State' the following: '(except with respect to employees of a State, or a political subdivision thereof, employed (1) in a hospital, institution, or school referred to in the last sentence of subsection (r) of this section, or (2) in the operation of a railway or carrier referred to in such sentence)'. "

"(c) Section 3(s) of such Act is amended to read as follows:

"(s) 'Enterprise engaged in commerce or in the production of goods for commerce' means an enterprise which has employees engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person, and which—

"(1) during the period February 1, 1967, through January 31, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than \$500,000 (exclusive of excise taxes at the retail level which are separately stated) or is a gasoline service establishment whose annual gross volume of sales is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated), and beginning February 1, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated);

"(2) is engaged in laundering, cleaning, or repairing clothing or fabrics;

"(3) is engaged in the business of construction or reconstruction, or both; or

"(4) is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, an elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit).

Any establishment which has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection.'

"(d) Section 3 of such Act is amended by adding after subsection (u) (added by section 103(b) of this Act) the following new subsections:

"(v) 'Elementary school' means a day or residential school which provides elementary education, as determined under State law.

"(w) 'Secondary school' means a day or residential school which provides secondary education, as determined under State law.'

"Agricultural employees"

"SEC. 103. (a) Section 3(e) of such Act is amended to read as follows:

"(e) 'Employee' includes any individual employed by an employer, except that such term shall not, for the purposes of section 3(u) include—

"(1) any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or the other member of the employer's immediate family, or

"(2) any individual who is employed by an employer engaged in agriculture if such individual (A) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (B) commutes daily from his permanent residence to the farm on which he is so employed, and (C) has been employed in agriculture less than thirteen weeks during the preceding calendar year.'

"(b) Section 3 of such Act is further amended by adding after subsection (t) (added by section 101(b) of this Act) the following new subsection:

"(u) 'Man-day' means any day during which an employee performs any agricultural labor for not less than one hour.'

"TITLE II—REVISION OF EXEMPTIONS"

"Hotel, restaurant, and recreational establishments; hospitals and related institutions"

"SEC. 201. (a) Section 13(a)(2) of such Act is amended by striking out everything preceding 'A "retail or service establishment"' and inserting in lieu thereof the following:

"(2) any employee employed by any retail or service establishment (except an establishment or employee engaged in laundering, cleaning, or repairing clothing or fabrics or an establishment engaged in the operation of a hospital, institution, or school described in section 3(s)(4)), if more than 50 per centum of such establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, and such establishment is not in an enterprise described in section 3(s) or such establishment has an annual dollar volume of sales which is less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated).'

"(b)(1) Section 13(b) of such Act is amended by inserting after paragraph (7) the following new paragraph in lieu of the paragraph repealed by section 211 of this Act:

"(8) any employee employed by an establishment which is a hotel, motel, or restaurant; or any employee who (A) is employed by an establishment which is an institution (other than a hospital) primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises, and (B) receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or'

"(2) Section 13(a) of such Act is amended by inserting after paragraph (2) the following new paragraph in lieu of the paragraph repealed by section 202 of this Act:

"(3) any employee employed by an establishment which is an amusement or recreational establishment, if (A) it does not operate for more than seven months in any

calendar year, or (B) during the preceding calendar year, its average receipts for any six months of such year were not more than 33⅓ per centum of its average receipts for the other six months of such year; or'

"Laundry and cleaning establishments"

"SEC. 202. Section 13(a)(3) of such Act is repealed.

"Agricultural employees"

"SEC. 203. (a) Section 13(a)(6) of such Act is amended to read as follows:

"(6) any employee employed in agriculture (A) if such employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred man-days of agriculture labor, (B) if such employee is the parent, spouse, child, or other member of his employer's immediate family, (C) if such employee (i) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) commutes daily from his permanent residence to the farm on which he is so employed, and (iii) has been employed in agriculture less than thirteen weeks during the preceding calendar year, (D) if such employee (other than an employee described in clause (C) of this subsection) (i) is sixteen years of age or under and is employed as a hand harvest laborer, is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) is employed on the same farm as his parent or person standing in the place of his parent, and (iii) is paid at the same piece rate as employees over age sixteen are paid on the same farm, or (E) if such employee is principally engaged in the range production of livestock; or'

"(b) Section 13(a)(16) of such Act (agricultural employees employed in livestock auctions) is repealed.

"(c) Section 13(b) of such Act is amended—

"(A) by striking out the period at the end of paragraph (11) and inserting in lieu thereof '; or', and

"(B) by adding at the end of paragraph (11) the following new paragraphs:

"(12) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a sharecrop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

"(13) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (A) is primarily employed during his work week in agriculture by such farmer, and (B) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a)(1); or'

"(d) Section 13(c) of such Act is amended to read as follows:

"(c)(1) Except as provided in paragraph (2), the provisions of section 12 relating to child labor shall not apply with respect to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed.

"(2) The provisions of section 12 relating to child labor shall apply to an employee below the age of sixteen employed in agriculture in an occupation that the Secretary of Labor finds and declares to be particularly hazardous for the employment of children

below the age of sixteen, except where such employee is employed by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person.

"(3) The provisions of section 12 relating to child labor shall not apply to any child employed as an actor or performer in motion pictures or theatrical production, or in radio or television productions."

"Agricultural processing employees"

"SEC. 204. (a) Sections 13(a)(10) (employees engaged in handling and processing of agricultural, horticultural, and dairy products); 13(a)(17) (country elevator employees); 13(a)(18) (country ginning employees); and 13(a)(22) (fruit and vegetable transportation employees) of such Act are repealed.

"(b) Section 13(b) of such Act is amended by adding after paragraph (13) (added by section 203(c) of this Act) the following new paragraphs:

"(14) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed in the establishment in such operations; or

"(15) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities, or in the processing of sugarbeets, sugarbeet molasses, sugarcane, or maple sap, into sugar (other than refined sugar) or syrup; or

"(16) any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables; or."

"(c) Subsection (c) of section 7 of such Act is amended to read as follows:

"(c) For a period or periods of not more than ten workweeks in the aggregate in any calendar year, or fourteen workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (d) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection if such employee (1) is employed by such employer in an industry found by the Secretary to be of a seasonal nature, and (2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment by such employer in excess of fifty hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

"(d) For a period or periods of not more than ten workweeks in the aggregate in any calendar year, or fourteen workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (c) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection, if such employee—

"(1) is employed by such employer in an enterprise which is in an industry found by the Secretary—

"(A) to be characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of agricultural or horticultural com-

modities from farms if such industry is engaged in the handling, packing, preparing, storing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, or

"(B) to be of a seasonal nature and engaged in the handling, packing, storing, preparing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, and

"(2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed."

"(d)(1) Subsections (d), (e), (f), (g), and (h) of section 7 of such Act are redesignated as subsections (e), (f), (g), (h), and (i), respectively.

"(2) Subsections (g) and (h) of such section 7 (as so redesignated by paragraph (1) of this subsection) are each amended by striking out 'subsection (d)' and inserting in lieu thereof 'subsection (e)'."

"Small newspapers"

"SEC. 205. Section 13(a)(8) of such Act is amended by striking out 'where printed and published' and inserting in lieu thereof 'where published'."

"Transportation companies"

"SEC. 206. (a) Section 13(a)(9) of such Act is repealed.

"(b)(1) Section 13(a)(12) of such Act is repealed.

"(2) Section 13(b) of such Act is amended by adding after paragraph (16) (added by section 204(b) of this Act) the following new paragraph:

"(17) any driver employed by an employer engaged in the business of operating taxicabs; or"

"(c) Section 13(b)(7) of such Act is amended to read as follows:

"(7) any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency; or"

"Motion picture theater employees"

"SEC. 207. Section 13(a) of such Act is amended by inserting after paragraph (8) the following new paragraph in lieu of the paragraph repealed by section 206(a) of this Act:

"(9) any employee employed by an establishment which is a motion picture theater; or"

"Logging crews"

"SEC. 208. Section 13(a)(15) of such Act is amended by striking out 'twelve' and inserting in lieu thereof 'eight'."

"Automobile, aircraft, and farm implement sales establishments"

"SEC. 209. (a) Section 13(a)(19) of such Act is repealed.

"(b) Section 13(b) of such Act is amended by inserting after paragraph (9) the following new paragraph in lieu of the paragraph repealed by section 212(a) if this Act:

"(10) any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles, trailers, trucks, farm implements, or aircraft if employed by a non-manufacturing establishment primarily engaged in the business of selling such vehicles to ultimate purchasers; or"

"Food service and bowling establishment employees"

"SEC. 210. (a) Section 13(a)(20) of such Act is repealed.

"(b) Section 13(b) of such Act is amended by adding after paragraph (17) (added by

section 206(b)(2) of this Act) the following new paragraphs:

"(18) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs; or

"(19) any employee of a bowling establishment if such employee receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed."

"Gasoline service stations"

"SEC. 211. Section 13(b)(8) of such Act is repealed.

"Petroleum distribution employees"

"SEC. 212. (a) Section 13(b)(10) of such Act is repealed.

"(b) Section 7(b)(3) of such Act is amended to read as follows:

"(3) by an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if—

"(A) the annual gross volume of sales of such enterprise is less than \$1,000,000 exclusive of excise taxes,

"(B) more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and

"(C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale. and such employee receives compensation for employment in excess of forty hours in any workweek at a rate not less than one and one-half times the minimum wage rate applicable to him under section 6."

"Eniwetok and Kwajalein Atolls and Johnston Island"

"SEC. 213. Section 13(f) of such Act is amended by striking out 'and the Canal Zone' and inserting in lieu thereof Eniwetok Atoll; Kwajalein Atoll; Johnston Island; and the Canal Zone'."

"Elementary and secondary school teachers and school administrative personnel"

"SEC. 214. Section 13(a)(1) of such Act is amended by inserting after 'professional capacity' the following: '(including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools)'."

"Technical and conforming amendments"

"SEC. 215. (a) Section 3(n) of such Act is amended by striking out ', except as used in subsection (s)(1)'."

"(b) Section 13(a) of such Act is amended—

"(1) by redesignating paragraphs (11), (13), (14), (15), and (21) as paragraphs (10), (11), (12), (13), and (14), respectively, and

"(2) by striking out ', or' at the end of paragraph (14) (as so redesignated in this subsection) and inserting in lieu thereof a period.

"(c) Paragraph (7) of section 13(a) of such Act is amended by striking out 'or order' and inserting in lieu thereof ', order, or certificate'."

"TITLE III—INCREASE IN MINIMUM WAGE"

"Presently covered employees"

"SEC. 301. (a) Section 6(a) of such Act is amended by amending that portion of the section preceding paragraph (2) to read as follows:

"(a) Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of

goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates:

"(1) not less than \$1.40 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966 and not less than \$1.60 an hour thereafter, except as otherwise provided in this section;".

"(b) Such section is amended by striking out the period at the end of paragraph (3) and inserting a semicolon, and by adding the following new paragraph:

"(4) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement); or".

"Agricultural employees"

"SEC. 302. Section 6(a) of such Act is amended by adding after paragraph (4) (added by section 301(b) of this Act) the following new paragraph:

"(5) if such employee is employed in agriculture, not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during the second year from such date, and not less than \$1.30 an hour thereafter."

"Newly covered employees"

"SEC. 303. Section 6(b) of such Act is amended to read as follows:

"(b) Every employer shall pay to each of his employees (other than an employee to whom subsection (a) (5) applies) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this section by the amendments made to this Act by the Fair Labor Standards Amendments of 1966, wages at the following rates:

"(1) not less than \$1 an hour during the first year from the effective date of such amendments,

"(2) not less than \$1.15 an hour during the second year from such date,

"(3) not less than \$1.30 an hour during the third year from such date,

"(4) not less than \$1.45 an hour during the fourth year from such date, and

"(5) not less than \$1.60 an hour thereafter."

"Employees in Puerto Rico and the Virgin Islands"

"SEC. 304. Section 6(c) of such Act is amended to read as follows:

"(c) (1) The rate or rates provided by subsections (a) and (b) of this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5.

"(2) In the case of any such employee who is covered by such a wage order and to whom the rate or rates prescribed by subsection (a) would otherwise apply, the following rates shall apply:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, increased by 12 per centum, unless such rate or rates are superseded by the rate or rates

prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1966 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) Beginning one year after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 16 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

"(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1966 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

"(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

"(3) In the case of any such employee to whom subsection (a) (5) or subsection (b) would otherwise apply, the Secretary shall within sixty days after the effective date of the Fair Labor Standards Amendments of 1966 appoint a special industry committee in accordance with section 5 to recommend the

highest minimum wage rate or rates in accordance with the standards prescribed by section 8, but not in excess of the applicable rate provided by subsection (a) (5) or subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (a) (5) or subsection (b), as the case may be. The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1966.

"(4) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee."

"Contract services to Federal Government"

"SEC. 305. Section 6 of such Act is amended by adding at the end thereof the following new subsection:

"(e) (1) Notwithstanding the provisions of section 13 of this Act (except subsections (a) (1) and (f) thereof), every employer providing any contract services (other than linen supply services) under a contract with the United States or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965 (41 U.S.C. 351-357) or to whom subsection (a) (1) of this section is not applicable, wages at rates not less than the rates provided for in subsection (b) of this section.

"(2) Notwithstanding the provisions of section 13 of this Act (except subsections (a) (1) and (f) thereof) and the provisions of the Service Contract Act of 1965, every employer in an establishment providing linen supply services to the United States under a contract with the United States or any subcontract thereunder shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (b), except that if more than 50 per centum of the gross annual dollar volume of sales made or business done by such establishment is derived from providing such linen supply services under any such contracts or subcontracts, such employer shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (a) (1) of this section."

"Federal employees"

"SEC. 306. Section 18 of such Act is amended by inserting "(a)" immediately after "SEC. 18," and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this Act (other than section 13(f)) or any other law, any employee—

"(1) described in paragraph (7) of section 202 of the Classification Act of 1949 (5 U.S.C. 1082(7)) whose compensation is required to be fixed and adjusted from time to time as nearly as is consistent with the pub-

lic interest in accordance with prevailing rates, and any Federal employee in the Canal Zone engaged in employment of the kind described in such paragraph (7), or

"(2) described in section 7474 of title 10, United States Code, whose rates of wages are established to conform, as nearly as is consistent with the public interest, with those of private establishments in the immediate vicinity, or

"(3) employed in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces,

shall have his basic compensation fixed or adjusted at a wage rate which is not less than the appropriate wage rate provided for in section 6(a)(1) of this Act (except that the wage rate provided for in section 6(b) shall apply to any employee who performed services during the workweek in a work place within the Canal Zone), and shall have his overtime compensation set at an hourly rate not less than the overtime rate provided for in section 7(a)(1) of this Act."

"TITLE IV—APPLICATION OF MAXIMUM HOURS PROVISIONS

"Presently and newly covered employees

"SEC. 401. Section 7(a) of such Act is amended to read as follows:

"(a)(1) Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

"(2) No employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this subsection by the amendments made to this Act by the Fair Labor Standards Amendments of 1966—

"(A) for a workweek longer than forty-four hours during the first year from the effective date of the Fair Labor Standards Amendments of 1966,

"(B) for a workweek longer than forty-two hours during the second year from such date, or

"(C) for a workweek longer than forty hours after the expiration of the second year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."

"Commission salesman

"SEC. 402. Subsection (1) of section 7 of such Act (as so redesignated by section 204(d) of this Act) is amended by adding at the end thereof the following new sentence: 'In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.'

"Hospital employees

"SEC. 403. Section 7 of such Act is amended by adding after subsection (1) of such section (as so redesignated by section 204(d)(1) of this Act) the following new subsection.

"(j) No employer engaged in the operation of a hospital shall be deemed to have violated subsection (a) if, pursuant to an agreement or understanding arrived at be-

tween the employer and the employee before performance of the work, a work period of fourteen consecutive days is accepted in lieu of the workweek of seven consecutive days for purposes of overtime computation and if, for his employment in excess of eight hours in any workday and in excess of eighty hours in such fourteen-day period, the employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed."

"TITLE V—STUDENTS AND HANDICAPPED WORKERS

"Students and handicapped workers

"SEC. 501. Section 14 of such Act is amended to read as follows:

"Learners, apprentices, students, and handicapped workers

"SEC. 14. (a) The Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for the employment of learners, of apprentices, and of messengers employed primarily in delivering letters and messages, under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe.

"(b) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment of full-time students, regardless of age but in compliance with applicable child labor laws, on a part-time basis in retail or service establishments (not to exceed twenty hours in any workweek) or on a part-time or a full-time basis in such establishments during school vacations, under special certificates issued pursuant to regulations of the Secretary, at a wage rate not less than 85 per centum of the minimum wage applicable under section 6, except that the proportion of student hours of employment to total hours of employment of all employees in any establishment may not exceed (1) such proportion for the corresponding month of the twelve-month period preceding May 1, 1961, (2) in the case of a retail or service establishment whose employees (other than employees engaged in commerce or in the production of goods for commerce) are covered by this Act for the first time on or after the effective date of the Fair Labor Standards Amendments of 1966, such proportion for the corresponding month of the twelve-month period immediately prior to such date, or (3) in the case of a retail or service establishment coming into existence after May 1, 1961, or a retail or service establishment for which records of student hours worked are not available, a proportion of student hours of employment to total hours of employment of all employees based on the practice during the twelve-month period preceding May 1, 1961, in (A) similar establishments of the same employer in the same general metropolitan area in which the new establishment is located, (B) similar establishments of the same employer in the same or nearby counties if the new establishment is not in a metropolitan area, or (C) other establishments of the same general character operating in the community or the nearest comparable community. Before the Secretary may issue a certificate under this subsection he must find that such employment will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under this subsection.

"(c) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by certificate or order provide for the employment of full-time students, regardless of age but

in compliance with applicable child labor laws, on a part-time basis in agriculture (not to exceed twenty hours in any workweek) or on a part-time or a full-time basis in agriculture during school vacations, at a wage rate not less than 85 per centum of the minimum wage applicable under section 6. Before the Secretary may issue a certificate or order under this subsection he must find that such employment will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under this subsection.

"(d)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, the Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment under special certificates of individuals (including individuals employed in agriculture) whose earning or productive capacity is impaired by age or physical or mental deficiency or injury, at wages which are lower than the minimum wage applicable under section 6 of this Act but not less than 50 per centum of such wage and which are commensurate with those paid nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work.

"(2) The Secretary, pursuant to such regulations as he shall prescribe and upon certification of the State agency administering or supervising the administration of vocational rehabilitation services, may issue special certificates for the employment of—

"(A) handicapped workers engaged in work which is incidental to training or evaluation programs, and

"(B) multihandicapped individuals and other individuals whose earning capacity is so severely impaired that they are unable to engage in competitive employment, at wages which are less than those required by this subsection and which are related to the worker's productivity.

"(3)(A) The Secretary may by regulation or order provide for the employment of handicapped clients in work activities centers under special certificates at wages which are less than the minimums applicable under section 6 of this Act or prescribed by paragraph (1) of this subsection and which constitute equitable compensation for such clients in work activities centers.

"(B) For purposes of this section, the term "work activities centers" shall mean centers planned and designed exclusively to provide therapeutic activities for handicapped clients whose physical or mental impairment is so severe as to make their productive capacity inconsequential."

"TITLE VI—MISCELLANEOUS

"Statute of limitations

"SEC. 601. (a) Section 16(c) of such Act is amended by striking out 'two-year statute' and by inserting in lieu thereof 'statutes'.

"(b) Section 6(a) of the Portal-to-Portal Act of 1947 (Public Law 49, Eightieth Congress) is amended by inserting before the semicolon at the end thereof the following: ', except that a cause of action arising out of a willful violation may be commenced within three years after the cause of action accrued'.

"Effective date

"SEC. 602. Except as otherwise provided in this Act, the amendments made by this Act shall take effect on February 1, 1967. On and after the date of the enactment of this Act the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

"Study of excessive overtime

"SEC. 603. The Secretary of Labor is hereby instructed to commence immediately a complete study of present practices dealing with

overtime payments for work in excess of forty hours per week and the extent to which such overtime work impedes the creation of new job opportunities in American industry. The Secretary is further instructed to report to the Congress by July 1, 1967, the findings of such survey with appropriate recommendations.

"Canal Zone employees and Panama Canal study"

"SEC. 604. The Secretary of Labor, in cooperation with the Secretary of Defense and the Secretary of State, shall (1) undertake a study with respect to (A) wage rates payable to Federal employees in the Canal Zone engaged in employment of the kind described in paragraph (7) of section 202 of the Classification Act of 1949 (5 U.S.C. 1082(7)) and (B) the requirements of an effective and economical operation of the Panama Canal, and (2) report to the Congress not later than July 1, 1968, the results of his study together with such recommendations as he may deem appropriate.

"Study of wages paid handicapped clients in sheltered workshops"

"SEC. 605. The Secretary of Labor is hereby instructed to commence immediately a complete study of wage payments to handicapped clients of sheltered workshops and of the feasibility of raising existing wage standards in such workshops. The Secretary is further instructed to report to the Congress by July 1, 1967, the findings of such study with appropriate recommendations.

"Prevention of discrimination because of age"

"SEC. 606. The Secretary of Labor is hereby directed to submit to the Congress not later than January 1, 1967 his specific legislative recommendations for implementing the conclusions and recommendations contained in his report on age discrimination in employment made pursuant to section 715 of Public Law 88-352. Such legislative recommendations shall include, without limitation, provisions specifying appropriate enforcement procedures, a particular administering agency, and the standards, coverage, and exemptions, if any, to be included in the proposed enactment."

And the Senate agree to the same.

ADAM POWELL,
ELMER HOLLAND,
JAMES G. O'HARA,
JOHN H. DENT,
ROMAN PUCINSKI,
DOMINICK DANIELS,
ALPHONZO BELL,

Managers on the Part of the House.

RALPH W. YARBOROUGH,
WAYNE MORSE,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
ROBERT KENNEDY,
HARRISON WILLIAMS,
J. JAVITS,
WINSTON L. PROUTY,
ROBERT P. GRIFFIN,

Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees to raise the minimum wage, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate struck out all of the House bill after the enacting clause and inserted a substitute amendment. The committee of conference has agreed to a substitute for both the House bill and the Senate amendment. Except for technical, clarifying, and con-

forming changes, the following statement explains the differences between the House bill and the substitute agreed to in conference.

TIPS

Section 101 of the House bill provided that the wage paid a tipped employee is to be treated as increased on account of tips by an amount determined by his employer which may not exceed 45 per centum of the applicable minimum wage. The Senate amendment in a similar provision provided that the amount by which a tipped employee's wage was to be increased on account of tips was not to exceed 50 per centum of the applicable minimum wage.

The conference substitute conforms to the Senate amendment.

ELEMENTARY AND SECONDARY SCHOOLS

Section 102 of the House bill contained a provision not included in the Senate amendment which provided that public and private elementary and secondary schools would be considered "enterprises engaged in commerce or in the production of goods for commerce". Thus, the minimum wage and overtime coverage of the Act would extend to the employees of such schools, except for those employees who would be exempt from such coverage under section 13(a) or 13(b) of the Act.

The conference substitute conforms to the House bill. Section 13(a)(1) of the Act which provides an exemption from minimum wage and overtime coverage for persons employed in an administrative or professional capacity was amended to make it clear that teachers and academic administrative personnel in public or private elementary or secondary schools come within such exemption.

DEFINITION OF MAN-DAY

In section 103 of the House bill the term "man-day" was defined to mean any day during any portion of which an employee performs any agricultural labor. In the Senate amendment such term was defined to mean any day during which an employee performs any agricultural labor for one hour.

The conference substitute provides that such term shall mean any day during which an employee performs agricultural labor for not less than one hour.

OVERTIME EXEMPTION FOR NURSING HOME EMPLOYEES

The Senate amendment contains a provision not contained in the House bill which provides an overtime exemption for nursing home employees.

The conference substitute contains the Senate provision with an amendment requiring compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which each employee is employed.

MINIMUM WAGE AND OVERTIME EXEMPTION FOR AGRICULTURAL EMPLOYEES

(1) Employees under the Sugar Act of 1948.—Section 203 of the House bill contained a provision not in the Senate amendment which provided an exemption for employees whose wages rates are established by the Secretary of Agriculture under section 301(c)(1) of the Sugar Act of 1948.

The Senate amendment contains no similar provision and none is contained in the conference substitute.

(2) Hand-harvest laborers, 16 and under and paid on a piece-rate basis.—The Senate amendment contained a provision not in the House bill which provides an exemption for a hand-harvest laborer, 16 and under and paid on a piece-rate basis, who works on the same farm as his parent and receives the same piece rate as other workers over age 16.

The conference substitute adopts the provision in the Senate amendment.

(3) Employees engaged in range produc-

tion of livestock.—The Senate amendment contained a provision not in the House bill providing a minimum wage and overtime exemption for employees primarily engaged in the range production of livestock.

The conference substitute adopts the provision in the Senate amendment.

CHILD LABOR IN AGRICULTURE

The Senate amendment contained a provision not in the House bill which provides that no employee below the age of 16 may be employed in agriculture in an occupation found by the Secretary to be particularly hazardous for employment of children, except when such employee is employed by his parent on a farm owned or operated by his parent.

The conference substitute contains the Senate provision.

OVERTIME EXEMPTION FOR SUGAR PROCESSING EMPLOYEES

The Senate amendment contained a provision not in the House bill which provides an overtime exemption for an employee engaged in the processing of sugar beets, sugar beet molasses, sugar cane, or maple sap into sugar (other than refined sugar) or syrup.

The conference substitute conforms to the Senate amendment.

OVERTIME EXEMPTION FOR SEASONAL INDUSTRY AND AGRICULTURAL PROCESSING EMPLOYEES

Section 204 of the House bill provided a 14-week overtime exemption, limited to 10 hours a day and forty-eight hours a week, for employees employed in a seasonal industry which is not engaged in agricultural processing. That section also provided an identical overtime exemption for employees of agricultural processing industries. Thus, no employer will be permitted more than one 14-week overtime exemption in any calendar year. The Senate amendment contained a similar provision which differed from the House provision in the following respects:

(1) employers in industries which are seasonal and are also engaged in agricultural processing would be permitted an overtime exemption for their employees for a period of 20 workweeks in the aggregate in a calendar year, and

(2) the overtime exemption for employees in seasonal industries was limited to 52 hours in a workweek.

The conference substitute conforms to the Senate amendment, except the overtime exemption for employees in seasonal industries was limited to 50 hours in a workweek.

It was the declared intention of the conferees to give notice that the days of overtime exemptions for employees in the agricultural processing industry are rapidly drawing to a close, because advances in technology are making the continuation of such exemption unjustifiable.

OVERTIME EXEMPTION FOR PARTSMEN AND FLIGHT PERSONNEL

In section 209 of the House bill an overtime exemption was provided for partsmen of retail automobile, truck, trailer and farm implement sales establishments and for flight personnel of aircraft sales establishments. The Senate amendment limited the overtime exemption for partsmen to partsmen employed by retail farm implement sales establishments and eliminated such exemption for such flight personnel.

The conference substitute conforms to the House provision regarding partsmen, except that such exemption shall be available only to salesmen, partsmen, and mechanics primarily engaged in selling or servicing such vehicles.

The conference substitute does not provide an overtime exemption for flight personnel in aircraft sales establishments.

BOWLING ESTABLISHMENT EMPLOYEES

The Senate amendment contained a provision not in the House bill which provides

an overtime exemption for employees of a bowling establishment.

The conference substitute contains the Senate provision with an amendment which requires that every employee employed in a bowling establishment receive compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed.

EFFECTIVE DATE OF RAISE IN MINIMUM WAGE FOR PRESENTLY COVERED EMPLOYEES

Section 301 of the House bill provided that the raise in the minimum wage from \$1.40 an hour to \$1.60 an hour for presently covered employees would be effective February 1, 1969. The Senate amendment made such raise effective February 1, 1968.

The conference substitute conforms to the Senate amendment.

CONTRACT SERVICES TO FEDERAL GOVERNMENT

Section 305 of the House bill provided that an employer providing a contract service (other than laundering and related cleaning services) under a contract with the United States (or any subcontract thereunder) must pay to each of his employees (other than an employee employed in a capacity described in section 13(a)(1)) whose rate of pay is not governed by the Service Contract Act of 1965 or section 6(a)(1) of the Act (wage rates for presently covered employees) wages at not less than the rate provided in section 6(b) of the Act (wage rates for presently covered employees). The wage rate for employees of employers providing laundering or related cleaning services under such a contract was to be not less than that provided in section 6(b) of the Act, except that if such employer derived more than 50 per centum of his annual business from providing such services under such a contract, the wage rate was to be not less than that provided in section 6(b). The Senate amendment is identical to the House bill except that the minimum wage rate for employees (whose rate of pay is not governed by the Service Contract Act of 1965 or section 6(a)(1) of the Act) of an employer providing laundering and related cleaning services under such a contract was to be the rate prescribed in section 6(b) of the Act.

The conference substitute conforms to the House provision except that "linen supply services" were substituted for "laundering and related cleaning services". It is the intention of the conferees that the amendment made by the conference substitute shall apply only to contracts with the United States (or any subcontractor thereunder) entered into after the effective date of the Fair Labor Standards Amendments of 1966.

MINIMUM WAGE RATES FOR FEDERAL WAGE BOARD EMPLOYEES

Section 306 of the House bill provides that certain Federal wage board employees and employees in nonappropriated fund instrumentalities of the Armed Forces, e.g., post exchanges, must be paid basic compensation at a rate not less than the rate provided in section 6(a)(1) of the Act and also must be paid for overtime work at a rate not less than that specified in section 7(a)(1) of the Act. This requirement applies only if such employees are employed in the District of Columbia or a State of the United States.

The Senate amendment contains a similar provision which differs from the House provision in the following respects:

(1) the provision is to apply to employees of naval facilities whose wages are established to conform with those in the immediate vicinity,

(2) the provision is to apply to employees employed in the jurisdictions in which the Act applies, and

(3) Federal employees in the Canal Zone are to receive compensation at the section 6(b) rate.

The conference substitute conforms to the Senate amendment.

HOSPITAL EMPLOYEES

The Senate amendment contained a provision not in the House bill which permits hospitals to calculate their overtime on a biweekly rather than weekly basis if there is an understanding with the employees that the work period is to be a period of 14 consecutive days. Overtime compensation would have to be paid for hours worked over 8 in a day and 80 in the 14-day work period.

The conference substitute conforms to the Senate amendment.

MINIMUM WAGE FOR HANDICAPPED WORKERS

The Senate amendment contained a provision not in the House bill which provides that handicapped workers employed in sheltered workshops must be paid wages commensurate with those paid nonhandicapped workers for essentially the same type, quality, and quantity of work, but not less than 50 percent of the applicable minimum wage. However, the Secretary may issue special certificates for employment at less than the minimum wage in proportion to the worker's productivity where the work is incidental to a training or evaluation program, or under exceptional circumstances where individuals are so severely impaired that they cannot engage in competitive employment. The Secretary is also authorized to establish special rates of compensation for handicapped workers employed in "work activity centers". A "work activity center" means an establishment designed exclusively for workers whose physical or mental handicap is so severe as to make their productive capacity inconsequential.

The conference substitute provides for the employment of handicapped workers, including those employed in agriculture, at wages lower than the minimum wage applicable under section 6, but not less than 50 per centum of such wage. Such wages shall be commensurate with wages paid nonhandicapped workers for essentially the same type, quality, and quantity of work. The Secretary, however, may issue special certificates for employment at wages which are less than 50 per centum of the minimum wage applicable under section 6, and which are in proportion to the worker's productivity, where the work is incidental to a training or evaluation program or under exceptional circumstances of severe impairment. The Secretary is also authorized to establish special rates of compensation for handicapped workers employed in "work activity centers". A "work activity center" means an establishment designed exclusively for workers whose physical or mental handicap is so severe as to make their productive capacity inconsequential.

OVERTIME EXEMPTION FOR MANAGEMENT TRAINEES

Section 501 of the House bill contains a provision which permits the employment of a limited number of management trainees in a retail or service establishment who are being trained to serve in a bona fide executive or administrative capacity without the payment of overtime compensation for a period not to exceed 18 months.

The Senate amendment contained no similar provision and none is contained in the conference substitute.

MINIMUM WAGE RATE FOR NEW EMPLOYEES

Section 501 of the House bill contained a provision which provides that during the first 6 weeks of full-time employment of an individual under the age of 21 the minimum wage rate for such employee may be 75 per centum of the minimum wage rate which would otherwise apply to him.

The Senate amendment contained no similar provision and none is contained in the conference substitute.

FEDERAL WAGE BOARD EMPLOYEES IN CANAL ZONE: STUDY

The Senate amendment contained a provision not in the House bill which directs the Secretary of Labor, after consultation with the Secretary of Defense and the Secretary of State, to study the wage rates of Federal wage board employees in the Canal Zone and also the requirements of an effective and economical operation of the Panama Canal. The Secretary of Labor is to report to the Congress the results of his study, including any recommendations, not later than July 1, 1968.

The conference substitute contains the Senate amendment which requires the Secretary of Labor to transmit such report to the Congress.

STUDY OF WAGES PAID HANDICAPPED CLIENTS IN SHELTERED WORKSHOPS

The Senate amendment contained a provision not in the House bill directing the Secretary of Labor to make a study of wages paid handicapped clients in sheltered workshops and of the feasibility of raising existing wage standards in such workshops. The Secretary is to report the results of his study to the Congress no later than July 1, 1967.

The conference substitute adopts the Senate amendment.

PREVENTION OF DISCRIMINATION BECAUSE OF AGE

The Senate amendment contained a provision not in the House bill prohibiting discrimination in employment against any person forty-five years of age or older because of such person's age.

The conference substitute directs the Secretary of Labor to submit specific legislative recommendations for implementing the conclusions contained in his age discrimination report made pursuant to section 715 of Public Law 88-352.

ADAM POWELL,
ELMER HOLLAND,
JAMES G. O'HARA,
JOHN H. DENT,
ROMAN C. PUCINSKI,
DOMINICK V. DANIELS,
ALPHONZO BELL,

Managers on the Part of the House.

AMENDING THE LAW ENFORCEMENT ASSISTANCE ACT OF 1965

MR. TUCK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13551) to amend the Law Enforcement Assistance Act of 1965, and for other purposes, as amended.

The Clerk read as follows:

H.R. 13551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the Law Enforcement Assistance Act of 1965 (79 Stat. 828) is amended by deleting the word "two" and by inserting in lieu thereof the word "four".

SEC. 2. Section 10 of said Act is amended by striking out all after the semicolon and inserting in lieu thereof "and for the fiscal year ending June 30, 1967, the sum of \$15,000,000, and for the fiscal year ending June 30, 1968, the sum of \$30,000,000, and for the fiscal years ending June 30, 1969, and June 30, 1970, such sums as the Congress may hereafter authorize.

The SPEAKER pro tempore. Is a second demanded?

MR. POFF. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Virginia [Mr. Tuck], will be recognized for 20 minutes, and the gentleman from Virginia [Mr. Poff] will be recognized for 20 minutes.

Mr. TUCK. Mr. Speaker, I yield myself such time as I may consume.

The purpose of this legislation, as amended, is to extend for 2 years; that is, until June 30, 1970, the life of the Law Enforcement Assistance Act of 1965 and to authorize appropriation of \$15 million for fiscal year ending June 30, 1967, and \$30 million for fiscal year ending June 30, 1968. Authorization for appropriations for fiscal 1969 and 1970 would be left for future congressional consideration, since our committee did not feel it would be appropriate for us to provide for that during this Congress.

The Law Enforcement Assistance Act of 1965 authorized the Attorney General, over a 3-year period, to make grants furthering the training of State and local law enforcement personnel and enabling demonstrations and other projects to improve State and local law enforcement agencies. Testimony submitted at hearings on this legislation before the subcommittee over which I presided in the absence of Chairman WILLIS indicate that the law enforcement assistance program is worthwhile and is worth encouraging.

What is more, the law contains a vital limitation, which prohibits any Federal department or agency from attempting to exercise direction, supervision, or control over any State or local police force or other law enforcement agency. The committee has received no complaint to the effect that this restriction has been violated, from any State or any locality in the Union. We believe that the program has been working fine so far, and we are of the opinion it should be continued.

As enacted, the Law Enforcement Assistance Act contains authorization to appropriate \$10 million for the fiscal year ending June 30, 1966. Late in October 1965 there was approved an appropriation of \$7¼ million which became available for obligation.

It is my understanding that approximately \$7 million has been spent.

The committee believes that if we are to make significant inroads into crime on a national scale, State and local agencies must be enabled to train their law enforcement officers and bring up-to-date their law enforcement techniques. Bearing in mind that the program is necessarily an expanding one, the amended bill provides authorization for the appropriation of \$15 million for fiscal year 1967 and \$30 million for fiscal year 1968.

This is considerably less than was asked for by the Department of Justice.

The bill as amended is acceptable, as I understand it, to the Department of Justice. I may say it passed the subcommittee of which I acted as chairman by unanimous approval of the able members of that subcommittee and also passed the full Committee on the Judiciary by unanimous approval. I believe particularly at this time when law enforcement is so necessary and so indis-

pensable to the continued existence and happiness of the people of this Government that we should do what we can to enhance the enforcement of the law on a local basis.

Mr. POFF. Mr. Speaker, as my distinguished colleague from Virginia just said, this legislation does have enthusiastic bipartisan support. The Law Enforcement Assistance Act originated in Subcommittee No. 3 of the Committee on the Judiciary in 1965. At that time there were some minor differences of opinion about the proper approach and the proper scope that the legislation should take. I must say in 1 year's operation we have so far experienced the law has vindicated the wisdom of the members of the subcommittee. In all respects we find that it has been handled properly, with proper discretion, proper restraint, and proper regard for constitutional concepts. We were faced this year with a request which originally was rather broader than the subcommittee thought would be wise. Accordingly, we cautioned the Department of Justice that if we were to continue to give the bipartisan support that such an experimental program so desperately needs, we would have to confine the new legislation to its present scope and effect. We were successful in persuading the department that this was the judicious course. Accordingly, the legislation does no more than extend the life of the program, which was first authorized only last year, for an additional 2 years. It also fixes a specific authorization for fiscal year 1967 of \$15 million, which is \$5 million lower than the Department of Justice indicated would be requested. For the following fiscal year, 1968, there is a limitation of \$30 million. We heartily recommend the passage of the bill in its present form.

Mr. Speaker, I now yield 2 minutes to the gentleman from Iowa [Mr. Gross].

(Mr. GROSS asked and was given permission to revise and extend his remarks.)

Mr. GROSS. Mr. Speaker, I have no doubt that this legislation can do some good, but I wish the Attorney General of the United States would give to the law enforcement officers of the country, and all of them, the support which he gives this bill. Education of those involved in the enforcement of the law in this country is not going to mean very much if there is to be a continuation of the situation we have today; a continuation of the decisions handed down by the courts which have circumscribed and seriously hampered the work of law enforcement officers. We can spend money, millions of dollars of it, in this fashion, but it will have little meaning if we are going to continue to have so little cooperation from the Attorney General's office—if we are going to have a continuation of the lawlessness that prevails in many of the cities of this country today.

Mr. TUCK. Mr. Speaker, I thank the gentleman from Iowa [Mr. Gross] for his comments.

Mr. Speaker, I might say to the gentleman from Iowa that I share in

general the views which the gentleman has expressed.

Mr. Speaker, it is certainly my view that the agents of the Department of Justice shall cooperate with the local law enforcement agencies in the rigid enforcement of the law on a local basis.

Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. Corman], the author of the bill.

(Mr. CORMAN asked and was given permission to revise and extend his remarks.)

Mr. CORMAN. Mr. Speaker, may I say to the gentleman from Iowa [Mr. Gross] that I agree with the gentleman that this bill will do a great deal toward accomplishing the objectives about which the gentleman has expressed concern, although I do not share the gentleman's misgivings about the Supreme Court decisions. I believe that law enforcement in a free society, particularly in view of our Bill of Rights, is a difficult matter. This makes this legislation more important. But I believe that if we had our choice of more efficient law enforcement, at the expense of the Bill of Rights, we would reject that approach.

Mr. Speaker, I rise in support of the legislation.

The amended bill would extend for 2 years, that is, until June 30, 1970, the life of the Law Enforcement Assistance Act of 1965 and would authorize the appropriation of \$15 million for the fiscal year ending next June 30 and \$30 million for the fiscal year ending June 30, 1968. The Law Enforcement Assistance Act is designed to play a vital role in the national strategy for the prevention of crime. The United States is firmly committed to the maintenance of law and order within the framework of our constitutional freedoms.

As enacted on September 22, 1965 the act authorized the Attorney General, over a 3-year period, to make grants furthering the training of State and local law enforcement personnel and to make grants for demonstrations and other projects designed to improve the work of State and local law enforcement agencies. The need for such a program is manifest. With a rapidly growing population, largely concentrated in urban areas, there is an immediate need to solve law enforcement problems on a nationwide basis in spite of many frustrating social tensions.

Crime is costing us on the order of \$27 billion annually and this figure does not begin to reflect the tragic toll in human lives and the costs associated with fear and suspicion which mark urban life today.

Operation of the act to date has begun to resolve some of these problems. As of March 15, the Office of Law Enforcement Assistance had received more than 1,000 general inquiries; 190 applicants had submitted 250 specific proposals requesting support in excess of \$35 million. Funds to administer the act became available last November 1 and there was appropriated \$7,249,000 which became available for obligation. Grants and contracts had been obligated for \$2.2 million.

DIGEST of Congressional Proceedings

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HIGHLIGHTS: Senate adopted conference report on foreign aid authorization bill.
House agreed to conference report on labor standards bill. House debated interest-
rates control bill.

HOUSE

- 1. LABOR STANDARDS.** Agreed to, 259-89, the conference report on H. R. 13712, to amend the Fair Labor Standards Act so as to increase the minimum wage, extend the Act to various additional groups including agricultural workers, and strengthen the overtime-work provisions. pp. 21029-37
- 2. INTEREST RATES.** Began debate on H. R. 14026, to impose ceilings on rates of interest payable on time deposits in insured banks. pp. 21042-76, 21078-80

3. BUDGETING. Rep. Halpern spoke in favor of his bill to provide for a Joint Committee on the Budget. p. 21087
4. POVERTY. Rep. Brademas inserted Sargent Shriver's speech, "Why We Need the War on Poverty." pp. 21098-102
5. LEGISLATIVE PROGRAM. Rep. Boggs announced an intention to complete the interest-rates bill and the sea-grant college bill today, then adjourn until Mon. p. 21069

SENATE

6. FOREIGN AID. Agreed to the conference report on H. R. 15750, the foreign aid authorization bill. This bill will now be sent to the President. pp. 21019-26
7. LOANS. Concurred in the House amendment to S. 112, to authorize the Secretary of Agriculture to make real estate mortgage loans on leased lands in Hawaii. This bill will now be sent to the President. p. 20987
8. SALINE WATER. Concurred in the House amendment to S. 2747, to authorize conclusion of an agreement with Mexico for joint measures for solution of the Lower Rio Grande salinity problem. This bill will now be sent to the President. p. 20988
9. RECLAMATION. Agreed to the conference report on S. 254, to authorize the Tualatin Federal reclamation project, Oreg. This bill will now be sent to the President. pp. 21017-19
10. SCHOOL MILK. Sen. Proxmire expressed his intention to "fight for additional funds for the milk program in a supplemental appropriation bill." p. 20983
11. PARK SERVICE. Sen. Tower inserted a proclamation paying tribute to the National Park Service on its 50th anniversary. p. 21000
12. FARM POLICY. Sen. McGovern inserted an article critical of the world farm policy, a letter from Secretary Freeman stating that the article "presents a faulty impression of the food situation in this country and the world," and Sen. McGovern's letter on this subject. pp. 21000-2
13. INTERGOVERNMENTAL RELATIONS. Sen. Kennedy, Mass., urged early hearings on his bill to authorize a study and investigation of an information service system for the States and localities to enable participation in federally assisted programs and inserted a paper on the subject prepared by Willard Fazar of the Budget Bureau. pp. 21003-8
14. PESTICIDES. Sen. Nelson commended and inserted an article, "If Pesticide Use Goes Unchecked, Game May Be Too Scarce To Hunt Or Unsafe To Eat." pp. 21008-11

ITEMS IN APPENDIX

15. LABELING. Rep. Cunningham inserted testimony presented in opposition to the proposed truth-in-packaging legislation. pp. A4684-6
16. RESEARCH; EDUCATION. Rep. Reuss inserted an article, "Problems Involved In Cooperation Between Universities and Government Agencies." pp. A4687-9

ceedings under the call were dispensed with.

PERSONAL ANNOUNCEMENT

Mr. CHAMBERLAIN. Mr. Speaker, because it was necessary for me to be absent on August 26, I was not recorded on two rollcalls. I would like the RECORD to show that had I been present I would have voted "yea" on No. 244 and "nay" on No. 245.

FAIR LABOR STANDARDS AMENDMENTS OF 1966

Mr. POWELL. Mr. Speaker, I call up the conference report on the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

(For conference report and statement, see proceedings of the House of August 6, 1966.)

Mr. POWELL (interrupting the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement on the part of the managers be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. The gentleman from New York is recognized for 1 hour.

Mr. AYRES. Mr. Speaker, how much time will the minority have?

Mr. POWELL. One-half the time, 30 minutes.

Mr. Speaker, the conference on the amendments to the Fair Labor Standards Act of 1938, of which I have the honor of being chairman, was faced with 38 substantial differences in the bill passed by the two bodies. The managers on the part of the House sought to preserve as much of the House-passed bill as was possible, while still preserving the chances of bringing a bill from the conference committee. We had to make concessions and compromises so that we could bring a conference report back to our respective bodies for a vote.

The conference report we bring back to the House today is the best we could obtain after two full days of difficult bargaining and negotiation.

The bill passed by the Senate was substantially identical with the bill passed by the House. In a bill of some 40 pages there were only 38 differences. On these, the House receded on 19 differences and the Senate receded on 19 differences.

This is an excellent piece of legislation. It is a landmark in the forward stride of this Congress in the field of labor legislation. It will provide coverage of 8 million American workers, who are presently unprotected, under the basic benefits of the Fair Labor Stand-

ards Act. These workers are primarily employed by restaurants, hotels, retail and service establishments, laundries, agriculture, construction, schools and local transit companies.

I am particularly pleased to report the coverage of tipped employees who have unjustifiably been exempted from this act since its original enactment 30 years ago. In fact, Mr. Speaker, there was no extended coverage at all, after 1938, until we extended this bill 5 years ago to include the retail stores.

In addition to the new coverage, this bill will effectuate an increase in the minimum wage level from the present \$1.25 to \$1.60. The \$1.60 level will take effect February 1, 1968, for those presently covered. For those newly covered nonfarmworkers, the pay scale to take effect will begin at \$1 an hour on February 1, 1967, with 15 cents an hour increase up to \$1.60 in 1971. Agricultural laborers are to be \$1 per hour beginning February 1, 1967, with an increase to \$1.15 in 1968 and to \$1.30 in 1969.

It is unfortunate that we must wait this long to raise full-time workers' salaries above the \$3,100 poverty level income figure, but this was the best we could do under the circumstances. Surely we could do no less.

I hope my colleagues will support the conferees by voting for the conference report.

Mr. Speaker, I yield such time as he may require to the distinguished gentleman from Ohio [Mr. AYRES], who has done a magnificent job in the Committee on Education and Labor, even when he disagrees, in helping us to bring out legislation for the good of our Republic.

Mr. AYRES. Mr. Speaker, first I should like to commend the Members on both sides of the conference table, Republican and Democrat, for the fine cooperative spirit that was shown on practically every provision, in upholding the House provisions.

As Members know, our former Member, Congressman James Roosevelt, was the chairman of this subcommittee, and when he resigned from Congress the gentleman from Pennsylvania [Mr. DENT] became chairman of the General Subcommittee on Labor, which handled the fair labor standards or minimum wage legislation.

I wish to say that the gentleman from Pennsylvania has worked around the clock in an effort to come forth with a good minimum wage bill.

When we voted the bill out of the House on May 26, it called for a stretch-out period of 2 years on the increase to the \$1.60 an hour. This bill, as it passed the House, provided that beginning on February 1, 1967, the minimum wage for presently covered employees should be \$1.40 an hour, to rise on February 1, 1969, 2 years later, to \$1.60 an hour; in other words, a 2-year period between the increase to \$1.40 and the increase to \$1.60.

This provision was approved on the floor of the House as a result of an amendment first offered by the gentleman from New Mexico [Mr. MORRIS], and then amended by myself. My amendment passed the House 205 to 194.

That is what we went to conference with.

Now, the Senate-passed bill provided for an increase in the minimum wage for presently covered employees from \$1.40 to \$1.60 an hour on February 1, 1968; that is, after 1 year instead of 2 years as provided in the House bill. In the conference—and this is important, Mr. Speaker—the majority members among the House conferees, offering practically no opposition, receded from their own position and agreed to the Senate provision for 1 year at \$1.40 instead of 2 years. Prior to the termination of the conference, in accordance with the procedure previously agreed upon by the conferees, I asked for reconsideration of the provision. The gentleman from New York, the chairman of our committee [Mr. POWELL], supported the rules of the conference which were most fair, that reconsideration could be given to any proposal before the end of the conference. I asked for reconsideration of this provision, and then I offered a compromise on it. I did so, Mr. Speaker, because I am sure that practically all of the Members who have been here for two terms or more and have been conferees, believe as I do—and I have been a conferee several dozens times over a period of nearly 16 years—that when you are a conferee it is your responsibility to uphold the House position to the best of your ability. Now, regardless of what my personal feelings may have been, since the House had passed and had enacted in its bill the 2-year stretchout period, I felt we should fight for that, but there was no fight made. In the spirit of compromise, therefore, I offered this proposal: \$1.40 an hour during the first year, \$1.50 during the second year, and \$1.60 thereafter, thus offering \$1.50 during the second year instead of the \$1.40 in the House bill and the \$1.60 in the Senate bill. In all fairness to the Senate conferees, they did not have an opportunity to accept this, because the House conferees did not approve my compromise.

Mr. HALEY. Mr. Speaker, will the gentleman yield?

Mr. AYRES. I yield to the gentleman from Florida.

Mr. HALEY. Would the gentleman inform the House whether or not any of the provisions of the House bill were maintained in the conference committee?

Mr. AYRES. I will say to the gentleman from Florida that I think the House came out remarkably well except on this stretch-out provision. This was given no consideration. In fact, the gentleman from Pennsylvania [Mr. DENT] was kind enough to second my motion, but there were no votes on the majority side for my compromise.

Mr. HALEY. In other words, what the gentleman is saying is that the conferees did not have an opportunity really to arrive at some decision and the gentleman's amendment was given no consideration. Is that correct?

Mr. AYRES. That is correct. The Senate conferees were never given an opportunity to act on my compromise

proposal because the House conferees receded to the Senate position before a compromise was offered.

Mr. HALEY. I thank the gentleman.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. AYRES. I yield to the gentleman.

Mr. GERALD R. FORD. Is my recollection correct that when this issue was brought up on the floor of the other body the 1-year step was approved by a vote of 42 to 40?

Mr. AYRES. That is correct. There was just a two-vote margin in the other body against the same proposal that we voted for here in our bill.

Mr. GERALD R. FORD. So there is substantial strength in the other body for the position that was taken by the House at the time we considered this amendment?

Mr. AYRES. Yes. I will say to the distinguished minority leader that that is absolutely correct. I feel strongly that had we been able to present a compromise to the Senate conferees, it would have been accepted. But, we may have an opportunity to determine that in the next few hours.

So, strangely enough, it was unnecessary for the conferees on the part of the other body to act on this provision.

Mr. Speaker, as the gentleman from Michigan [Mr. GERALD R. FORD] pointed out and as the gentleman from Florida [Mr. HALEY] pointed out, the House conferees never offered anything to them on which to arrive at a compromise. The action by the House conferees would seem to me to constitute a violation of the obligation of the House conferees to the House itself or to the conferees of the other body for that matter, because without having any opportunity for a compromise, the House position was never fully brought before the conference.

Mr. Speaker, as I stated previously, the House conferees are fairly well in agreement on the other provisions, and this is a good bill.

Mr. Speaker, I did not sign the conference report, only because of this provision. Aside from this amendment, I am in accord with all of the provisions of the bill. But as ranking member of the committee, and having worked very closely with our able chairman, I thought it was my moral responsibility to give the House of Representatives an opportunity, Mr. Speaker, to instruct the conferees to go back to conference and insist upon the House provision.

Now, Mr. Speaker, that does not mean that we are going to win the House provision. But it does mean that we will go back and bring it to the conferees of the other body and I am quite confident that we can arrive at a compromise that will be equitable and fair to all parties concerned.

Therefore, Mr. Speaker, I am sure that it is perfectly clear to the membership that, in the event my motion to recommit the conference report—with instructions—prevails, then we will go back to conference and come back with a compromise.

Frankly, I doubt very much that the exact wording that will be contained in

my motion to recommit will be accepted by the other body.

Mr. POWELL. Mr. Speaker, will the gentleman yield?

Mr. AYRES. I am glad to yield to the gentleman from New York, the chairman of the Committee on Education and Labor.

Mr. POWELL. My distinguished friend, the gentleman from Ohio [Mr. AYRES], has just answered the question about the conference to the effect that if we did go back to conference we would not be limited in that conference to the instructions contained in the gentleman's motion to recommit, would we?

Mr. AYRES. We have the right and the obligation in the conference to be reasonable and hold to the position of the House of Representatives as closely as we can. But I am quite confident that the gentleman from New York and the gentleman from Ohio and the other conferees would be very reasonable.

Mr. POWELL. I thank you, sir.

Mr. AYRES. Now, Mr. Speaker, in the event that we do go back to conference and come back with another conference report, I believe approval would be unanimous on our side insofar as the members of the conference are concerned. However, if my motion should not prevail, then, of course, we would have a vote this afternoon on final passage.

Mr. Speaker, the reason I state that position is because many Members have indicated to me in effect that they want to vote for my proposal, but they also want to vote for the bill.

Mr. Speaker, if this motion does not prevail when we get back to a vote on final passage, I can assure the Members of the House that I shall request the yeas and nays on final passage.

Mr. Speaker, one last word: The motion to recommit will be for a provision which is identical to that which the House of Representatives passed on May 26. If you supported it then, I hope you will support it today. Those of you who did not support it then, I would like for you to consider the fact that we are even in a more inflationary period than we were last May.

Also, bear in mind the fact that this would be almost 1½ years, or a year from this February, before the present provisions of the proposal of the other body, \$1.60 an hour, would go into effect.

Mr. Speaker, I know that it would be very impractical to say that all of us are going to be back here next year. But, Mr. Speaker, there will be a 90th Congress and I believe that is the time during which we should take a look and determine whether or not this stretch-out period should be shortened, or even at that time we may even want to stretch it out a little further.

Next year is the time to do it. So I hope that you will support my motion, which calls for a provision identical to that which the House passed on May 26, instructing the conferees to go back to conference and come back with a compromise closer to the House provisions in this minimum wage bill.

Mr. POWELL. Mr. Speaker, I take great pride and pleasure in yielding as much time as he may desire to the chair-

man of the subcommittee and the author of this bill, the gentleman from Pennsylvania, who has done a monumental job in preparing this legislation for the House in conference [Mr. DENT].

(Mr. DENT asked and was given permission to revise and extend his remarks.)

Mr. DENT. Mr. Speaker, and Members of the House of Representatives, on Wednesday and Thursday of last week the House conferees met with the Senate conferees and pounded out an agreement on the language of the 1966 amendments to the Fair Labor Standards Act. Those 2 days were filled with intensive deliberation and give and take. In the essence of a conference I think these deliberations met the test. They represent a conference in the finest tradition of the word, and produced an agreement that I believe we can all be proud of. All of us will not be satisfied with all of the features of this act, but none of us will be dissatisfied with all of the features of the act.

I am not here to tell you that your conferees prevailed in all respects. There were 38 issues in conference, in debate. Of these we won 19, and the Senate won 19. I believe that is about as even a compromise as you can get.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. DENT. Mr. Speaker, I yield with a great deal of pleasure.

Mr. McCORMACK. Mr. Speaker, I think I am one of the few Members of the House today who was a Member of the House when the original minimum wage bill passed the House.

It happened that I presided over the Committee of the Whole on that bill. And in the Committee of the Whole the bill was so riddled with amendments that when it came back into the House those of us who favored the passage of the bill—it was then 25 cents an hour—voted to recommit the bill to the Committee on Labor.

Then some 3 months later the committee, under the able chairmanship of the late Mary Norton, a wonderful lady and a wonderful Member, reported out a bill, and we staggeringly got the bill through with little more than a title.

We were fighting then for human beings. We were fighting then for the underdog. We were fighting then for the forgotten person who is a human being just the same as each and every one of us are here.

This bill concerns human beings. It concerns families, individual human beings who are the employees who make up the families. It concerns strengthening the family life of our country.

It just seems to me, and I appeal to my colleagues without regard to party on the final passage of this bill, or on the motion to recommit with instructions, to vote down that motion. It is only a difference of a year when the second increase goes into operation.

We are dealing with human beings, as I said, just as you and I. They have their hopes, their aspirations and their ambitions. They have their little families. The passage of the bill would only

mean at the most \$64 a week for the breadwinner of the family.

I hope that my friends on both sides will realize the opportunity and the implications involved, and vote down the motion to recommit.

Mr. DENT. I thank the Speaker for doing what he always does—putting his finger upon the pertinent points in debate and in argument.

I am speaking of human beings, Mr. Speaker, and Members of this House. I believe that in the 19 points that your conferees won, we won the important points for human beings. We went into that conference with 8,028,000 new workers covered. We came out with 8,068,000 new workers covered—a gain after the Senate had reduced our original proposal by over 1 million people.

In the former bill the minimum wage, as described by the gentleman from Ohio, was \$1.40 in 1967 and \$1.60 in 1969, which is not the position taken by your committee in its deliberations when it presented to the House a bill with \$1.40 in 1967 and \$1.60 in 1968.

As conferees we felt that in the deliberations and in the conference there was a time and a place to give and a time and a place to take. We chose to take at this point. We chose to take the 2-year stretchout rather than the 3-year stretchout. The Senate has put into the bill a 2-year stretchout.

I want the gentleman from Ohio and all Members of the House to know that the gentleman from Ohio made his motion for a compromise on the Senate and House position. He did not have a second.

For many years, foolishly or wisely, I have always taken the position in any body in which I have sat, whether I am against or for the proposal made by the motion, that when the maker of that motion has no second, I shall second it. Contrary to my own wishes and desire in the matter, I gave a second to the gentleman from Ohio. Then the vote was taken, and in the vote he did not receive a majority.

This is truly a test of the position, at least, of the House. The Senate had no position to take. They were firm in what they did in the Senate.

Now, for anyone to criticize and to say that we did not fight hard enough to retain the position taken by the House, remember that in the provisions dealing with agricultural processing, your House Members had to recede from a position thrice disapproved by the House in extending the number of weeks that the processors would have for overtime exemptions.

Mr. AYRES. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Ohio.

Mr. AYRES. Mr. Speaker, I would like to say that the gentleman from Pennsylvania not only seconded my motion the first time, but when it was offered again at the end of the conference, he was kind enough to second it the second time.

Mr. DENT. I might say, though, I was not as generous as it appeared. We knew we had the votes. However, some-

times this generosity does get you into trouble. There was another amendment offered later to compromise a position on the bill, and the maker of the motion did not have a second. Again following long established custom, although I was against his compromise position, I gave him a second, and this time we did not have the votes and I was stuck on my own horn.

However, that is the way that this must work. This is a legislative body. We represent 435 districts, each of us in our turn doing that which we believe best for the peoples in our districts, and when the majority prevails, we know that we have given to the greater number the greater good, which, in my humble opinion, is the essence of a democracy at work.

In this particular bill we went a little further in that we tried to make it clear that although we had increased the number of processing weeks in the conference, it was the sense of the conferees, both of the Senate and the House, without a dissenting vote or voice, that this should act as a warning to the canning industry that it is about time that they catch up and come forward with technical advancements to allow their workers to enjoy that kind of life other workers are getting.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. DENT. I am happy to yield to our distinguished whip.

Mr. BOGGS. I would like to join with the distinguished Speaker in commending the gentleman from Pennsylvania and the other members of his subcommittee for the job that he has done. I know that this has not been an easy task. I know the gentleman has been working at this for almost 2 years, and the question of coverage, dates, and amounts is one that required an infinite amount of patience, of give and take, and of compromise, and the gentleman comes here today with a compromise report that represents all of those things, and it is a great step forward.

I would appreciate if the gentleman would reemphasize the number of new people who are coming under this legislation as a result of this bill. How many are there?

Mr. DENT. People who will come under the new provisions?

Mr. BOGGS. Yes.

Mr. DENT. Eight million sixty-eight thousand, the greatest advance in coverage in the history of minimum wage bills.

Mr. BOGGS. The gentleman sat in all the conferences, both in drafting the legislation in the subcommittee and in the full committee, and finally in the conference with the other body. Is the gentleman satisfied with the conference report as it now comes before us?

I am and I take pride in being a Member of a body that would sit down and work out this kind of agreement which leaves us all in a position of being proud of this work.

Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Louisiana.

Mr. BOGGS. Mr. Speaker, as you said a moment ago so effectively, this is a bill that affects the people, affects human beings, affects families. It is a minimum bill in a society described as an affluent society. I would hope this House will accept this conference report and vote down a motion to recommit.

Mr. DENT. I thank the gentleman.

Mr. Speaker, I believe we followed the dictates of this House. Insofar as the gentleman's proposal to postpone the wage increase, we went through that. I will give you a history, so there will be no misunderstanding. We did try, and we did everything we could to reach an agreement in January and February and March. At that time, if the Members will remember, when we inherited the Roosevelt bill, its effective date would have been 30 days after passage. At that time we felt the minimum wage bill would be passed by the end of April or, at the latest, by the end of May.

In order to reach a compromise on the escalation of the wage, this subcommittee went into negotiations with employers, employees, and administrative leaders. We came up with a prevailing thought that if we extended the effective date to February 1, 1967, we were giving the newly covered industries, particularly, an opportunity to adjust the conditions to meet the impact. We were giving the older covered industries the opportunity to meet their year-end work agreements in order that they would not be unduly upset. We thought we had done everything we could to meet the problem at that point. The House saw differently.

But I want to say that it was not, in my judgment, a considered move by the House in facing the realities both as they are and as they will be. Believe me, the march from the Rio Grande to Austin by the farmworkers is not an isolated condition. There is a move on foot by those who earn less than a poverty wage, to keep their families, to move into that area where they can, with honorable work, earn an honorable living so that they do not have to come, with their hands open, to the public till.

Honorable men do not want relief. Honorable men, raising families, want the heads of those in the families to be held up in the classrooms. They want to stand up in the community. They want to contribute to churches and to civic welfare, along with every other citizen. They do not want to be conditioned as second-class citizens. They do not want to be given handouts in lieu of honest pay, honest wages.

So as we look at the march by 41 people, of 400 miles through the heat and sand from the Rio Grande to Austin, we see it is not an isolated condition. It is one that will prevail in increasing incidence unless this Congress recognizes what the Congress recognized in 1938, when it came up with a bill providing 25 cents an hour.

Can anyone in this room imagine what it meant at that time to those in this country, who were bleeding hard from the desperation and degradation of the biggest breakdown in the economy of this country, during the Great Depression,

when Congress whispered a word of encouragement and said that at least henceforth the employer shall pay at least 25 cents an hour to the workers of this country?

From 25 cents to the maximum under this bill in 1968 or in 1971 is nothing but a mere gesture to these people, to show that they also are being considered, the same as they were considered in 1938 by that Congress.

The Speaker gave a little of the history. I would ask the Members to read, if they can take the time, the *RECORD* of the House and the *RECORD* of the Senate, in the debates of that time, to see how it was said this Nation would be completely destroyed if the Federal Government ever instituted any type of a mandate over the wages to be paid to workers by employers.

Has it been destroyed? It has not. We have climbed to the highest pinnacle of civilized treatment of the worker by those who hire the worker in the history of the world. Yet we have a long way to go. This is only a little step toward a higher pinnacle we know we will reach in the near future.

Mr. PUCINSKI. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Illinois.

Mr. PUCINSKI. Mr. Speaker, I should like to join in congratulating the gentleman in the well, the chairman of our subcommittee, who I believe has done a magnificent job in working this very difficult and controversial legislation through this chamber. I have never met a man who has been more thoroughly familiar with the subject he was dealing with than the chairman of our committee on this bill. It has been a source of great pride and privilege to me to sit next to him on that committee and watch him patiently, with compassion and understanding, work out the compromises, so that when he finally came to this floor with a bill the bill was approved by the House by an overwhelming majority.

Contrast this to a few years ago, when we came to the House, as Members will recall, and we were faced with a complete substitute bill on the floor of the house because we were so thoroughly divided on the provisions of the bill.

The gentleman has done a monumental job. This is landmark legislation.

This legislation now will cover 40 million Americans, nonsupervisory workers in this country; 80 percent of the American labor force will now be covered by fair labor standards.

I salute the job the gentleman has done on this bill. He has in effect built a monument to the vigor and vitality of the capitalistic system. I know of no other country in the world which can make the claim that 80 percent of its working people are covered by a fair labor standards act.

This bill for the first time brings in food processors. This was not easy. The gentleman in the well had to carefully put together a compromise package which was acceptable to the workers and to the industry.

This bill covers the agricultural workers for the first time. Again, the gentle-

man had to work out a very delicate situation to satisfy all sides.

For the first time in years we have brought restaurant workers under this bill. We have been trying to do this for many, many years, but never were we able to bring the two sides together. The gentleman in the well, with his persuasiveness, his compassion and understanding, was able to come along and do it. So today this bill, as I said, a monument to the vitality of the capitalistic system, is going to provide legislation which will cover 80 percent of the nonsupervisory employees in America. It shows indeed that this country is moving forward, that we have confidence in the workingmen of this country.

I want to congratulate the gentleman in the well, Mr. Speaker. As I said, it has been a rewarding experience to be able to sit next to him throughout all of these proceedings. In this conference he has been eminently fair. All sides have been heard and no one has been foreclosed in their testimony. He has brought to this floor a bill which all of us can support. I congratulate him for his contribution.

Mr. DENT. Mr. Speaker, I thank the gentleman for his kind remarks.

I want to make this point at the very place that the gentleman has discussed this matter. There have been some statements made here that the House did not stand as firm as we could have on the House position. When we came to the part in the compromise dealing with the restaurant workers, which the gentleman mentioned, the House had allowed a 45 percent tip allowance. The Senate had provided a 50 percent tip allowance. However, the Senate had taken another amendment which caused us a great deal of worry. We had reduced the enterprise test from \$1 million to \$250,000 and the Senate changed that to \$350,000. Now, in doing a little calculating at home I found out that if we bought the Senate provision for \$350,000, we would have exempted about 94 percent of the restaurants that we covered in the House. Therefore, your House conferees in dealing with this problem as it affected human beings, felt we should accept a 5 percent increase in the tip allowance, remembering that if they do not receive it, the employer must still pay it. So we thought that we had done something in getting the \$350,000 cut back to \$250,000. So it went through the negotiations. Now, we admit that the position of the House on processing was violated in a sense by the conferees and not without a great deal of fighting.

The Senate provision, which was put in by Senator WAYNE MORSE, was a do-or-die position taken by the Senate. He had offered an amendment which took our 14-week overtime exemption at 48 hours and came up with 10 weeks at 48 hours and 10 weeks at 52 hours. We considered that in the light of other amendments affecting farms, particularly in the area of piece rate averaging for farmworkers, and we considered one against the other. The Senate receded from their position on the averaging and we receded on our 14 weeks. However, in going through this process we did bite

a little wee bit off the Morse position and succeeded in knocking 2 hours off the 52-hour week down to 50 with the consent on the part of all the conferees that the industry must realize that this is its last time that it goes to the trough without leaning back a little on overtime. There is no longer any excuse for this industry, with the technical advances that have been made, that it cannot meet the demands of modern-day society and that it cannot meet the demands of modern-day living.

Mr. Speaker, before I discuss some areas in depth, I would like to clear up the intention of the conferees on two points not elaborated upon in the report. In section 305 of the bill, that relating to contract services provided the Federal Government, the conferees narrowed the House language from "laundrying or related cleaning services" to "linen supply services." This change was made to accommodate the particular and peculiar problems found by such suppliers in bidding for and maintaining service contracts with the Government. So that this accommodation does not erupt into a nightmare for administrators of the provision, I would like to provide guidance by stating the intent of the conferees. By "linen supply services" contracts, we do not intend inclusion of contracts providing services for diapers, family laundrying, or commercial laundrying and dry cleaning; nor do we mean it to include contracts providing services for work uniforms, industrial wiping towels, safety equipment salvage, dust control—including treated dust tool covers and cloths, treated dust mops and treated mats or rugs—and other industrial laundrying services. What we do intend to include are the standard linen supply services, such as for sheets, pillowcases, tablecloths, and so on. The exception was warranted in this area, but should be construed narrowly so as not to place other laundrying and cleaning establishments at a competitive disadvantage in bidding for U.S. contracts.

The second point of clarification concerns a section not in the conference bill, but in the House-passed bill. That section, originally 501, provided overtime exemptions for management trainees in retail and service establishments. Although it is not contained in the report before you, the conferees agreed upon the merit of the provision and believed the Secretary of Labor would be well advised to provide such tolerances by regulation. This would be entirely within his province, and was felt preferable to providing such exemptions by a complex section in the statute.

Mr. Speaker, I would now like to focus on what I know will be the basic issue in debating and acting on this conference report; that is, the increase to \$1.60 in 1968. I expect that much more will be said to the effect that the House conferees violated the position of the House by receding in favor of the Senate amendment. We are told of a record vote in the House which ratified the 2-year stretchout period.

Mr. Speaker, if we are accused of going against a record vote in this body to

accept a provision in the other bill, I plead guilty. As I said before, I also plead guilty to going against two teller votes and a record vote in the area of agricultural processing, to give such industries overtime exemptions I do not feel are justified. I might also add that the Senate conferees went against a record vote to accept our "enterprise test" instead of their own. May I suggest, Mr. Speaker, that there are occasions in a conference when both sides come to the table with record votes supporting opposite positions. One body must recede for the sake of the bill, and thereby go against action taken in its own Chamber. This is hardly unusual and is, in fact, necessary if there is to be any bill at all. In this case, the House conferees receded in the interest of the complete bill. We must remember that we are talking about an agreement on a whole bill, and not necessarily each component part. Our attention, therefore, should be directed to the merits of the bill in general.

As for the merits of the \$1.60 wage by 1968, there are many. In the early stages of consideration, we intended to raise the minimum wage to \$1.60 by 1968. We originally intended to do this in several steps, but the days went by and soon we found ourselves in mid-1966. The delay in enacting this bill is our responsibility, and we should not hold the wage earner to account for our own hesitation. We would be doing exactly this by postponing the \$1.60 increase to 1969. Each year, the minimum wage falls farther and farther behind average factory worker earnings. This is not in one of the elaborate charts circulating this body, which allege the minimum wage increase to be excessive. But is a hard-core reality and we should understand that changes in the minimum wage have not been responsive to actual and critical economic changes. We have lagged behind and \$1.60 in 1968 is still behind what the minimum wage should be then. Let us not forget that \$1.60 an hour yields the magnanimous sum of \$3,200 per year—generally considered to be a poverty wage.

Mr. Speaker, I daresay we will also hear the wage-price guidelines invoked today. I am always amused when those who condemn these guidelines use them when it suits their convenience. In any event, I am sure we will be told that the rise from \$1.25 to \$1.40 to \$1.60 represents a 12- and 16-percent increase in the minimum wage. These figures will then be called unprecedented and will be related to the wage-price guideline of 3.2 percent and declared patently excessive and inflationary.

Mr. Speaker, there are many legitimate replies to this allegation. First of all, the minimum wage amendments of 1949 represented an 87.5-percent increase; those of 1955 represented a 33⅓-percent increase; and those of 1961 represented a 25-percent increase. Therefore, we are not talking about unprecedented increases.

Second, in considering any wage increase, you do not consider that increase in a vacuum; it must be related to the total wage bill. There are 29.6 million

workers presently covered by the law. The annual wage bill for these workers is \$145 billion. Some 5,887 of them are earning less than \$1.60 an hour. To bring their wages up to this figure, the annual wage bill increase would be nearly \$2 billion. This averages out to a 0.68 percent increase per year over the next 2 years. This is the figure that should be related to the 3.2-percent guideline—not the 12- or 16-percent figures that are.

Mr. Speaker, I would further like to address this argument by reading from a letter I received from Arthur M. Okun, Acting Chairman of the Council of Economic Advisers. It deals specifically with this discussion:

THE CHAIRMAN OF THE COUNCIL
OF ECONOMIC ADVISERS,
Washington, May 19, 1966.

Hon. JOHN H. DENT,
House of Representatives,
Washington, D.C.

DEAR MR. DENT: This is written in answer to your request for our views on H.R. 13712, the Fair Labor Standards Amendments Act of 1966.

The President's Council of Economic Advisers believes that the enactment of H.R. 13712 will benefit the welfare of the Nation. The enactment of the bill will represent a major step in the process of eliminating substandard wages and working conditions, without imposing significant or abrupt cost increases on employers. Thus, the content of H.R. 13712 reconciles the goals of our social policy with the vital objectives of non-inflationary prosperity for the American economy.

Providing the protection of the minimum wage to the American worker has been an important element in our national policy for almost 30 years. Underlying this policy has been the recognition that some segments of our labor markets work imperfectly and that many workers are at a disadvantage in bargaining with their employers. But in recent years, the protection has applied to a smaller proportion of private nonsupervisory workers than was the case in 1938, when the Fair Labor Standards Act was passed. Moreover, the level of the minimum wage has not kept pace with our economic advances. The enactment of H.R. 13712 will rectify these developments. The extension of the coverage of the Fair Labor Standards Act will bring for the first time the protection of the minimum wage to about 7 million workers in services, trade, and agriculture. And the increase in the minimum for those already covered by the FLSA will make an important contribution toward the elimination of labor conditions that are inconsistent with the rising standards of earnings that characterize the majority of the American labor force.

An important feature of H.R. 13712 is that its enactment will not hamper our policy designed to preserve stability of costs and prices. First, the provisions of the bill will become effective in two stages—February 1967 and February 1968; the timing makes possible a gradual adjustment without causing disruptive cost pressures.

Secondly, the minimum wage for the newly covered worker begins with a very modest figure of \$1.00 and rises gradually over a period of 4 years.

The minimum wage increase proposed by H.R. 13712 for those already covered by the FLSA reflects appropriate concern for the standards of noninflationary behavior of wages. As you know, the Council's wage guideline provides for a specific exception in those cases "where wages are particularly low—that is, near the bottom of the econ-

omy's wage scales." The wages of those actually affected by minimum wage protection obviously fall into this category of exceptions to the guideline, and therefore should move up at a more rapid pace than the economy productivity trend. Only then can our least advantaged workers move closer to the average standards of prosperity enjoyed by the Nation's labor force. When one considers the time span since the last increase in the minimum wage in 1963 and the timing of the increases scheduled by H.R. 13712, the rate of increase appears entirely reasonable for this particular type of exception to the guideline.

In view of all these factors, the enactment of H.R. 13712 is essential and will make an important contribution to social and economic welfare.

Sincerely,

ARTHUR M. OKUN,
Acting Chairman.

Mr. Speaker, my friends on the other side of the aisle profess that their party has learned from history and acts accordingly on the basis of the lessons learned from history. Let me suggest to my friends that the minimum wage law can be judged by history. Let me further suggest that history violates their thesis of minimum wage increases disrupting the economy in any way. In fact, history is conspicuously absent of any evidence to the effect that minimum wages cause unemployment, inflation or what have you. These are merely the same old charges repeated since 1938, and they are no more valid now than they were in the past.

Mr. Speaker, we are talking about poverty wages here today. We are not setting wages, and I find it somewhat tragic that any worker should be affected by this bill, for no breadwinner should be paid a wage which forces him to support his family on the yearly sum of \$2,500. This is what \$1.25 an hour amounts to. Even \$1.60 an hour yields only \$3,200 per year. I wonder how many of us can stand up and sincerely object to a workingman earning, and supporting his family, on the grand annual sum of \$3,200.

Mr. Speaker, this report represents an effort to fulfill the promise of the original act and to reestablish its role as the major instrument of the Nation's fair labor standards policies. It reflects a reexamination of current needs to remove substandard working conditions and an effort to change the act to remedy those needs.

I cannot emphasize enough the importance of this legislation and strongly urge immediate House ratification of the conference report.

Mr. Speaker, before concluding my formal remarks, I would like to take particular cognizance of the contribution of the gentleman from California [Mr. BELL]. As ranking minority member on the subcommittee, and my cosponsor of this bill, the gentleman worked tirelessly and gave generously of himself and his many abilities. At all times, he was understanding and cooperative. This legislation bears the stamp of AL BELL and I am proud to be associated with him in advancing it.

Mr. Speaker, I ask that the following statement by Congressman HOLLAND be added at the end of my own remarks:

STATEMENT BY MR. HOLLAND

Mr. HOLLAND. Mr. Speaker, my good friend and colleague on the Education and Labor Committee, the gentleman from Ohio [Mr. AYRES], has advised us that he intends to make this motion—that in his judgment the committee of conference was wrong in deciding to make a 20-cent increase in the minimum hourly wage effective in 1 rather than in 2 years.

His arguments, Mr. Speaker, seem to hinge on the proposition that in the current state of inflation, this minute rise in the minimum wage will be of major and harmful impact. Mr. Speaker, the current inflation is characterized by vast increases in bank interest rates—in price inflation and profit inflation far out of step with actual wage increases. I am personally convinced that wage rises have had very little to do with the current inflationary pressures—but to suggest that it is the minimum wage which will or even could force up the general cost of living is an argument which borders on the ludicrous.

By and large, Mr. Speaker, I think it is fair to say that relatively few bankers are trying to get by on \$1.60 an hour. I would be more impressed by the argument of my good friend from Ohio if he were talking about the salaries of executives, or the impact of expense-account fun and games by executives. To describe the people who are trying, desperately and for the most part unsuccessfully, to scrape out a living at the ground floor of the economy, as contributing to inflation, is an argument I find difficult to take seriously. Let's attack inflation where it ought to be attacked—by voting for the bill Mr. PATMAN is bringing to the floor today, in an effort to hold down interest rates. Let's be a little less generous with the minimum wage we are paying the moneylenders, and a little more generous with the minimum wage we are paying the worst-paid members of the labor force.

Mr. FARBSTAIN. Mr. Speaker, will the gentleman yield?

Mr. DENT. Yes. I yield to the gentleman.

Mr. FARBSTAIN. I want to compliment the committee for their yeomanlike work in producing this conference report that will bring under the coverage of the minimum wage law an additional 8-million-odd people. I look forward to the time when all people will be covered so that no one shall be compelled to work for a poverty wage.

(Mr. FARBSTAIN asked and was given permission to revise and extend his remarks.)

Mr. FARBSTAIN. Mr. Speaker, I want to say how gratified I am to support the conference report on the minimum wage bill. I believe it is only right that the House conferees, in their wisdom, supported the Senate's date for effecting the second step of the increase. I am delighted that the minimum wage will be raised to \$1.40 next February 1 and \$1.60 a year later.

Mr. Speaker, we have heard a great deal of nonsense about how this bill is inadvisable because it would be inflationary. Let me say that raising the wage rates of those at the lowest levels of the economic ladder cannot possibly be inflationary. These are people who do not have enough to spend. They can scarcely exercise pressure in those sectors of the economy which are subject to inflation. Of course, they will be able to buy more food with their increases but this suggests that they have been insufficiently

fed, not that we must keep them away from the food markets. I am certain that with their inadequate wages, they still will not force up the price of the amenities for which the middle and upper classes compete with their dollars. I am pleased that 8,068,000 new individuals are covered by this legislation, particularly those earning poverty wages.

Mr. Speaker, it was totally unjust to put the burden for curbing inflation on our poorest citizens by denying them a second increase in the minimum wage until 1969. If inflation must be fought—and I thoroughly agree that it should—then the sacrifices must be made where they can be afforded, by those who do not want for food or lodging or clothing. I commend the conferees for their compassion and announce with pleasure that this bill, which has been returned to us in a better state than it left, will receive my full support.

Mr. DENT. Mr. Speaker, I thank the gentleman.

I now yield to the gentleman from California, a member of my committee [Mr. BURTON].

Mr. BURTON of California. Mr. Speaker, I rise to pay personal tribute and to call to the special attention of the Members of this House the tremendous achievement made possible by our colleague, Congressman JOHN DENT, chairman of the General Subcommittee on Labor. His political skill, resourcefulness, keen judgment and experienced and able leadership in bringing together various points of view produced this legislation which will extend more meaningful wage and hour benefits and protections to more of our Nation's working men and women than any single bill since the adoption of the Fair Labor Standards Act in the mid-1930's.

The Nation's working forces will long appreciate what we have done here because the evidence of it will be tangible to them. My purpose in these remarks, however, is to establish in this RECORD the credit that is due our able subcommittee chairman, who is in large measure responsible for what we have accomplished.

Mr. DENT. Mr. Speaker, I appreciate very much the kind remarks of my distinguished colleague [Mr. BURTON of California]. In reply I must also add that Mr. BURTON's diligent and conscientious contributions were very helpful to the committee effort to extend the minimum wage coverage to farmworkers and overtime protections for packing-house workers.

It is highly unusual that a new Member contributes so significantly to a major piece of legislation. I commend the gentleman from California [Mr. BURTON] for his successful efforts in having included in this legislation provisions extending minimum wage coverage at the newly covered rate to approximately 65,000 employees of local transit companies, 100,000 employees of taxi companies, and countless thousands of employees employed by Federal service contract employers—in addition to the previously covered employees of said service contractors. These achievements, coupled with the inclusion of

685,000 Federal wage board employees at the old-covered minimum wage rate and overtime provisions and the 1,471,000 hospital and nursing home employees at the newly covered minimum wage rate and effective overtime provisions, is truly an outstanding accomplishment.

Mr. Speaker, may I introduce as to how much time is left on our side?

The SPEAKER. The gentleman from New York [Mr. POWELL], in accordance with the time reserved by him to himself, has 1 minute remaining.

Mr. AYRES. Mr. Speaker, would the gentleman from Pennsylvania like for me to yield time to him?

Mr. DENT. Yes, I would like for the gentleman to do so if he can, because I would like to give a little illustration of the effects of this legislation.

Mr. AYRES. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. DENT].

The SPEAKER. The gentleman from Pennsylvania [Mr. DENT] is now recognized for 6 minutes.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding. I understand that the House conferees accepted amendments that were made by the other body with regard to sheltered workshops.

I received a telephone call this morning from the director of the Rochester Rehabilitation Center, which is located in my congressional district, concerned about the provisions of the conference report which relate to sheltered workshops. It was pointed out to me that in many of these instances people are given employment principally for the purposes of rehabilitation.

I just wonder if the chairman would explain to us what is contained in the conference report and what protection there is for this type of worker and what protection is afforded to him in the conference report.

Mr. DENT. In the main, the objective of putting the handicapped worker under this legislation, was to get them under the overall coverage of the protective covenants as contained in the minimum wage law.

In substance, it provides for the employment of handicapped workers at wages not less than 50 percent of the minimum wage. Exceptions are made for those individuals who are severely impaired and whose productivity cannot compare to that of other workers without handicap.

Mr. HORTON. Mr. Speaker, if the gentleman from Pennsylvania will yield further, I have one additional question on this point:

As I read the conference report, the Secretary does have the authority to establish such rates in the case of the severely handicapped and those who are perhaps engaged in this type of work where they are being rehabilitated only? Is that an accurate understanding?

Mr. DENT. That is clearly our intent.

Mr. HORTON. Mr. Speaker, one other question:

In the latter part of the report there is an indication that an amendment was agreed to with regard to the study being made by the Secretary of the Department of Labor as to wages paid in the so-called "sheltered workshops." Is this just a further amplification of this situation?

Mr. DENT. Well, it is necessarily a repetition of what is happening now, because under the existing law there is a continuing study on the part of the Department of Labor into the effect of earnings, as against the employment of handicapped persons where many are employed in employment which reflects therapeutic purposes of these participants.

If the gentleman will allow me to proceed—

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman from Missouri.

Mr. HALL. I have two points of reference only, and I appreciate the gentleman from Pennsylvania yielding.

No. 1, both the chairman of the Committee on Education and Labor, the gentleman from New York [Mr. POWELL], and the distinguished gentleman now in the well, the gentleman from Pennsylvania [Mr. DENT], have repeatedly emphasized the fact that the House of Representatives receded 19 times and the other body receded 19 times.

Mr. Speaker, a careful analysis of the action of the managers on the part of the House underlines and details such statements as, "Conforms to the Senate amendment," or "Conforms to the House bill," or "The Senate amendment was accepted," or "Adopts the provisions of the Senate amendment"—all in quotes—reveals that there were 16 times in which we adopted the position of the Senate and only 4 times in this statement wherein they adopted the position of the House.

I know there must be some explanation of this in other areas, and would the gentleman explain it?

Mr. DENT. Yes. The statement of managers shows only those changes which differed from the House-passed bill.

Mr. O'HARA of Michigan. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman.

Mr. O'HARA of Michigan. With respect to the question asked, I would like to make the additional point, in addition to the point made by the gentleman from Pennsylvania, as to the statement on the part of the managers of the House, that that sort of a statement was felt necessary only to explain in some detail those provisions of the conference report that were not in agreement with what the House has already debated, voted upon and passed. Therefore, if the House provision was left without any change whatsoever, that was not amplified upon to the same extent in the statement on the part of the managers on the part of the House as in those cases where the provisions were the same.

Mr. HALL. Mr. Speaker, I do appreciate the gentleman yielding to me, and I appreciate the explanations of both of the gentlemen, although it is well known, of course, as stated in the first paragraph, that there are no areas of disagreement on the part of the managers of both bodies.

My second question, knowing the distinguished gentleman is now holding in another subcommittee hearings on the impact of imports on our Nation's business, how do we justify a reduction in protective tariff laws and reciprocal trade treaties of 1962 on the one hand and establishing a floor for minimum wages on the other when we are suffering the impact of imports from around the world from those countries who have much less wages and perhaps no minimums.

Mr. DENT. To answer the gentleman I might say that I have always taken the two issues as separate issues, but yet they are related.

It is my humble opinion that no matter what happens in the areas of foreign trade, that that ought to have no effect upon the American standard of living when these necessary moves are made in order to increase the standard of living of those amongst us who do not have a standard that meets the minimum requirements of our society. I believe that we must move forward regardless of what happens in other areas.

Mr. GROSS. Mr. Speaker, I am always intrigued by the arguments of those who so enthusiastically support increased minimum wages and who vote with the greatest of ease for virtual repeal of tariffs thus permitting increased amounts of foreign products to come into this country.

It is one of the worst contradictions and deceptions of our time to increase minimum wages in this country and at the same time accept in steadily growing volume the products of far cheaper labor in foreign countries. For thousands of American workers a minimum wage law is meaningless for they will have no jobs at all as their opportunity for employment is increasingly absorbed by low-paid workers in foreign lands.

Mr. AYRES. Mr. Speaker, I would yield to the gentleman from Texas for a unanimous-consent request.

MILITARY CONSTRUCTION APPROPRIATION BILL

Mr. MAHON. Mr. Speaker, the House Committee on Appropriations will report the military construction bill on September 12, and it would like to have the bill considered in the House on September 14, 2 days thereafter, in order to expedite the program of the House.

I therefore ask unanimous consent that it be in order on Wednesday, September 14, to consider the military construction appropriations bill for the fiscal year 1967.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. MAHON]?

There was no objection.

Mr. AYRES. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, for the benefit of the

Members who have come onto the floor since the chairman of the committee, the gentleman from New York [Mr. POWELL], and myself had our discussion, I would like to repeat that there will be a motion to recommit with instructions which would request that the House hold as closely as possible to the same amendment that was adopted on May 26.

I have no further requests for time. The previous question was ordered.

The SPEAKER. The question is on the adoption of the conference report.

Mr. AYRES. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the conference report?

Mr. AYRES. I am, Mr. Speaker, in its present form.

The SPEAKER. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. AYRES of Ohio moves to recommit the conference report on the bill H.R. 13712 to the committee of conference with instructions to the managers on the part of the House to insist upon the retention in the conference report of the provision in the House bill by striking out the language on page 9 of the conference report which reads as follows:

"(1) not less than \$1.40 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966 and not less than \$1.60 an hour thereafter, except as otherwise provided in this section;"

and inserting in lieu thereof the provision in the House bill, page 18, line 24 through page 19, line 3, which reads as follows:

"(1) not less than \$1.40 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1966 and not less than \$1.60 an hour thereafter, except as otherwise provided in this section;"

Mr. DENT. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the "ayes" appeared to have it.

Mr. GERALD R. FORD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 163, nays 183, answered "present" 3, not voting 83, as follows:

[Roll No. 267]

YEAS—163

Abbott	Ashmore	Brock
Abernethy	Ayres	Broomfield
Adair	Bates	Brown, Clarence J., Jr.
Anderson, Ill.	Beckworth	Broyhill, N.C.
Andrews	Belcher	Broyhill, Va.
George W. Andrews	Bennett	Buchanan
Berry	Betts	Burleson
N. Dak.	Bolton	Burton, Utah
Arends	Bray	Byrnes, Wis.
Ashbrook		

Callan
Callaway
Carter
Casey
Cederberg
Chamberlain
Clancy
Clausen,
Don H.
Clawson, Del.
Cleveland
Colmer
Conable
Cramer
Cunningham
Curtis
Dague
Davis, Wis.
de la Garza
Derwinski
Dickinson
Dole
Dorn
Dowdy
Downing
Duncan, Tenn.
Edwards, Ala.
Ellsworth
Erlenborn
Everett
Findley
Flynt
Ford, Gerald R.
Fountain
Frelinghuysen
Gathings
Goodell
Greigg
Gross
Grover
Gubser
Gurney
Haley
Hall
Halleck
Hansen, Idaho

Hardy
Harsha
Harvey, Ind.
Harvey, Mich.
Hays
Henderson
Hull
Hutchinson
Ichord
Jarman
Jennings
Johnson, Pa.
Jonas
Jones, N.C.
Keith
Kornegay
Kunkel
Langen
Latta
Lennon
Lipscomb
McClory
McCulloch
McEwen
McMillan
MacGregor
Mahon
Marsh
Martin, Nebr.
Matthews
May
Michel
Mills
Mize
Moore
Morris
Morton
Natcher
Nelsen
Olson, Minn.
O'Neal, Ga.
Passman
Pirnie
Poage
Poff
Purcell

Quile
Quillen
Redlin
Reid, Ill.
Reifel
Reinecke
Rhodes, Ariz.
Robison
Rogers, Fla.
Roudebush
Rumsfeld
Satterfield
Schneebeli
Secrest
Selden
Skubitz
Smith, Calif.
Smith, N.Y.
Smith, Va.
Springer
Stalbaum
Stanton
Steed
Stephens
Stubblefield
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Tuck
Utt
Waggoner
Walker, Miss.
Walker, N. Mex.
Watkins
Watson
Watts
Whalley
White, Tex.
Whitener
Whitten
Wright
Wyatt
Younger

Trimble
Tunney
Udall
Vanik
Vigorito

Vivian
Waldie
Weltner
Widnall
Wolff

Wydler
Yates
Young
Zablocki

ANSWERED "PRESENT"—3

Edmondson King, Utah White, Idaho

NOT VOTING—83

Albert
Andrews,
Glenn
Aspinall
Bandstra
Baring
Battin
Blatnik
Bow
Cabell
Cameron
Carey
Cohelan
Collier
Cooley
Corbett
Curtin
Davis, Ga.
Devine
Diggs
Edwards, La.
Evans, Colo.
Evins, Tenn.
Feighan
Fino
Fisher
Fuqua
Garmatz
Gettys
Gilligan
Green, Oreg.
Grider
Hagan, Ga.
Hansen, Iowa
Hawkins
Hébert
Herlong
Hosmer
Johnson, Okla.
Jones, Mo.
Kelly
King, Calif.
King, N.Y.
Laird
Landrum
Leggett
Long, La.
McCarthy
Martin, Ala.
Martin, Mass.
Mathias
Miller
Minshall
Morrison
Mosher
Multer
Murray
Murphy, N.Y.

Until further notice:

Mr. Hansen of Iowa with Mr. O'Konski.
Mr. Morrison with Mr. Fino.
Mr. Long, of Louisiana, with Mr. Mosher.
Mr. Long of Louisiana with Mr. Minshall.
Mr. Smith of Iowa with Mr. Hosmer.
Mr. McCarthy with Mr. Martin of Alabama.

Mr. EDMONDSON. Mr. Speaker, I have a live pair with the gentleman from Oklahoma [Mr. ALBERT]. If he were present he would have voted "nay." I voted "yea." I withdraw my vote and vote "present."

Mr. BECKWORTH changed his vote from "nay" to "yea."

Mr. KING of Utah. Mr. Speaker, I have a live pair with the gentleman from Massachusetts [Mr. O'NEILL]. If he were present he would have voted "nay." I voted "yea." I withdraw my vote and vote "present."

Mr. WHITE of Idaho. Mr. Speaker, I have a live pair with the gentleman from California [Mr. KING]. If he were present he would have voted "nay." I voted "yea." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

The doors were opened.

The SPEAKER. The question is on the adoption of the conference report.

Mr. POWELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 259, nays 89, not voting 84, as follows:

[Roll No. 268]

YEAS—259

NAYS—183

Adams
Addabbo
Anderson, Tenn.
Annunzio
Ashley
Barrett
Bell
Bingham
Boggs
Boland
Bolling
Brademas
Brooks
Brown, Calif.
Burke
Burton, Calif.
Byrne, Pa.
Cahill
Celler
Chelf
Clark
Clevenger
Conte
Conyers
Corman
Craley
Culver
Daddario
Daniels
Dawson
Delaney
Dent
Denton
Dingell
Donohue
Dow
Dulski
Duncan, Oreg.
Dwyer
Dyal
Edwards, Calif.
Fallon
Farbstein
Farnsley
Farnum
Fasell
Flood
Fogarty
Foley
Ford
William D.
Fraser
Friedel
Fulton, Pa.
Fulton, Tenn.
Gallagher

Gialmo
Gibbons
Gilbert
Gonzalez
Grabowski
Gray
Green, Pa.
Griffiths
Hagen, Calif.
Halpern
Hamilton
Hanley
Hanna
Hansen, Wash.
Hathaway
Hechler
Helstoski
Hicks
Holifield
Holland
Horton
Howard
Hungate
Huot
Irwin
Jacobs
Joelson
Johnson, Calif.
Jones, Ala.
Karsten
Karth
Kastenmeier
Kee
Keogh
Kirwan
Kluczynski
Krebs
Kupferman
Long, Md.
Love
McDade
McDowell
McFall
McGrath
McVicker
Macdonald
Machen
Mackay
Mackie
Madden
Mailliard
Matsunaga
Meeds
Minish
Mink
Moeller
Monagan

Moorhead
Morgan
Morse
Moss
Murphy, Ill.
Nedzi
Nix
O'Brien
O'Hara, Ill.
O'Hara, Mich.
Olsen, Mont.
Patman
Patten
Pelly
Pepper
Perkins
Philbin
Powell
Price
Pucinski
Race
Randall
Rees
Reid, N.Y.
Resnick
Reuss
Rhodes, Pa.
Rivers, Alaska
Rodino
Rogers, Colo.
Ronan
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roybal
Ryan
St. Onge
Saylor
Scheuer
Schmidhauser
Schweiker
Shipley
Sickles
Sisk
Slack
Stafford
Staggers
Stratton
Sullivan
Sweeney
Tenzer
Thomas
Thompson, N.J.
Todd

On this vote:
Mr. Edmondson for, with Mr. Albert against.

Mr. King of Utah for, with Mr. O'Neill of Massachusetts against.

Mr. White of Idaho for, with Mr. King of California against.

Mr. Sikes for, with Mr. Garmatz against.

Mr. Roberts for, with Mr. Multer against.

Mr. Baring for, with Mr. Murphy of New York against.

Mr. Cabell for, with Mr. Carey against.

Mr. Scott for, with Mr. Blatnik against.

Mr. Cooley for, with Mr. Schisler against.

Mr. Hébert for, with Mr. Miller against.

Mr. Williams for, with Mr. Evins of Tennessee against.

Mr. Glenn Andrews for, with Mr. Gilligan against.

Mr. Schriver for, with Mr. Mathias against.

Mr. Battin for, with Mr. Martin of Massachusetts against.

Mr. Bow for, with Mr. Aspinall against.

Mr. Devine for, with Mr. Bandstra against.

Mr. Collier for, with Mr. Diggs against.

Mr. Bob Wilson for, with Mr. Charles H. Wilson against.

Mr. Fuqua for, with Mr. Leggett against.

Mr. Gettys for, with Mr. Cohelan against.

Mr. Grider for, with Mr. Davis of Georgia against.

Mr. Murray for, with Mr. Cameron against.

Mr. Pickie for, with Mr. Ullman against.

Mr. Pike for, with Mr. Van Deerlin against.

Mr. Fisher for, with Mr. Feighan against.

Mr. Herlong for, with Mrs. Kelly against.

Mr. Rogers of Texas for, with Mr. St Germain against.

Mr. Thompson of Texas for, with Mrs. Green of Oregon against.

Mr. Hagan of Georgia for, with Mr. Corbett against.

Mr. Tuten for, with Mr. Hawkins against.

Mr. Landrum for, with Mr. Evans of Colorado against.

Mr. Rivers of South Carolina for, with Mr. Senner against.

Mr. Pool for, with Mr. Ottinger against.

Mr. Curtin for, with Mr. Johnson of Oklahoma against.

Mr. King of New York for, with Mr. Tupper against.

Adair
Adams
Addabbo
Anderson, Ill.
Anderson, Tenn.
Andrews,
N. Dak.
Annunzio
Arends
Ashley
Bandstra
Barrett
Bates
Beckworth
Bell
Bennett
Berry
Bingham
Boggs
Boland
Bolling
Bolton
Brademas
Brooks
Broomfield
Brown, Calif.
Broyhill, N.C.
Burke
Burton, Calif.
Byrne, Pa.
Cahill
Callan
Carter
Celler
Chamberlain
Clancy
Clark
Clausen,
Don H.
Cleveland
Clevenger
Conable
Conte
Conyers
Corman
Craley
Cramer
Culver
Cunningham
Daddario
Daniels
Dawson
de la Garza
Delaney
Dent
Derwinski
Dingell
Donohue
Dow
Dulski
Duncan, Oreg.
Dwyer
Dyal
Edmondson
Edwards, Calif.
Ellsworth
Erlenborn
Everett
Fallon
Farbstein
Farnsley
Farnum
Fasell
Flood
Fogarty
Foley
Ford, Gerald R.
Ford,
William D.
Fraser
Frelinghuysen
Friedel
Fulton, Pa.
Fulton, Tenn.
Gialmo
Gibbons
Gilbert
Gonzalez
Goodell
Grabowski
Gray
Green, Pa.
Greigg
Griffiths
Grover
Gubser
Hagen, Calif.
Halleck
Halpern
Hamilton
Hanley
Hanna
Hansen, Wash.
Harsha
Harvey, Mich.
Hathaway
Hays
Hechler
Helstoski
Hicks
Holifield
Holland
Horton
Howard
Hungate
Huot
Ichord
Irwin
Jacobs
Jennings
Joelson
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Karsten
Karth
Kastenmeier
Kee
Keith
Keogh
Kirwan
Kluczynski
Krebs
Kupferman
Latta
Long, Md.
Love
McCulloch
McDade
McDowell
McEwen
McFall
McGrath
McVicker
Macdonald
MacGregor

Machen	Price	Springer
Mackay	Pucinski	Stafford
Mackie	Quile	Staggers
Madden	Race	Stalbaum
Mailliard	Randall	Stanton
Matsunaga	Redlin	Steed
May	Rees	Stratton
Meeds	Reid, N.Y.	Sullivan
Michel	Reifel	Sweeney
Mills	Reinecke	Talcott
Minish	Resnick	Taylor
Mink	Reuss	Teague, Calif.
Mize	Rhodes, Pa.	Tenzer
Moeller	Robison	Thomas
Monagan	Rodino	Thompson, N.J.
Moore	Rogers, Colo.	Todd
Moorhead	Rogers, Fla.	Trimble
Morgan	Ronan	Tunney
Morris	Roncalio	Udall
Morse	Rooney, N.Y.	Vanik
Morton	Rooney, Pa.	Vigorito
Moss	Rosenthal	Vivian
Murphy, Ill.	Rostenkowski	Waldie
Nedzi	Roush	Walker, N. Mex.
Nix	Roybal	Weltner
O'Brien	Ryan	Whalley
O'Hara, Ill.	St. Onge	White, Idaho
O'Hara, Mich.	Saylor	White, Tex.
Olsen, Mont.	Scheuer	Whitener
Olson, Minn.	Schmidhauser	Widnall
Passman	Schneebeli	Wolf
Patman	Schweiker	Wright
Patten	Secrest	Wyatt
Pelly	Shipley	Wydler
Pepper	Sickles	Yates
Perkins	Sisk	Young
Philbin	Skubitz	Younger
Pirnie	Slack	Zablocki
Powell	Smith, N.Y.	

NAYS—89

Abbitt	Downing	Matthews
Abernethy	Duncan, Tenn.	Natcher
Andrews,	Edwards, Ala.	Nelsen
George W.	Findley	O'Neal, Ga.
Ashbrook	Flynt	Poage
Ashmore	Fountain	Poff
Ayres	Gathings	Pool
Belcher	Gross	Purcell
Betts	Gurney	Quillen
Bray	Haley	Reid, Ill.
Brock	Hall	Rhodes, Ariz.
Brown, Clar-	Hansen, Idaho	Roudebush
ence J., Jr.	Hardy	Rumsfeld
Broyhill, Va.	Harvey, Ind.	Satterfield
Buchanan	Henderson	Selden
Burleson	Hull	Smith, Calif.
Burton, Utah	Hutchinson	Smith, Va.
Byrnes, Wis.	Jarman	Stephens
Callaway	Jonas	Stubblefield
Casey	Jones, N.C.	Teague, Tex.
Cederberg	King, Utah	Thomson, Wis.
Chelf	Kornegay	Tuck
Clawson, Del	Kunkel	Utt
Colmer	Langen	Waggonner
Curtis	Lennon	Walker, Miss.
Dague	Lipscomb	Watkins
Davis, Wis.	McClory	Watson
Dickinson	McMillan	Watts
Dole	Mahon	Whitten
Dorn	Marsh	
Dowdy	Martin, Nebr.	

NOT VOTING—84

Albert	Gettys	Murray
Andrews,	Gilligan	O'Konski
Glenn	Green, Oreg.	O'Neill, Mass.
Aspinall	Grider	Ottenger
Baring	Hagan, Ga.	Pickie
Battin	Hansen, Iowa	Pike
Blatnik	Hawkins	Rivers, Alaska
Bow	Hébert	Rivers, S.C.
Cabell	Herlong	Roberts
Cameron	Hosmer	Rogers, Tex.
Carey	Johnson, Okla.	St Germain
Cohelan	Jones, Mo.	Schisler
Collier	Kelly	Scott
Cooley	King, Calif.	Senner
Corbett	King, N.Y.	Shriver
Curtin	Laird	Sikes
Davis, Ga.	Landrum	Smith, Iowa
Denton	Leggett	Thompson, Tex.
Devine	Long, La.	Toll
Diggs	McCarthy	Tupper
Edwards, La.	Martin, Ala.	Tuten
Evans, Colo.	Martin, Mass.	Ullman
Evins, Tenn.	Mathias	Van Deerlin
Feighan	Miller	Williams
Fino	Minshall	Willis
Fisher	Morrison	Wilson, Bob
Fuqua	Mosher	Wilson,
Gallagher	Multer	Charles H.
Garmatz	Murphy, N.Y.	

So the conference report was agreed to.
The Clerk announced the following pairs:

On this vote:

Mr. O'Neill of Massachusetts for, with Mr. Hébert against.
Mr. King of California for, with Mr. Sikes against.
Mr. Evins of Tennessee for, with Mr. Roberts against.
Mr. Pike for, with Mr. Fuqua against.
Mr. Pickle for, with Mr. Cabell against.
Mr. Grider for, with Mr. Scott against.
Mr. Garmatz for, with Mr. Cooley against.
Mr. Albert for, with Mr. Gettys against.
Mr. King of New York for, with Mr. Fisher against.
Mr. Bow for, with Mr. Hagan of Georgia against.
Mr. Devine for, with Mr. Rivers of South Carolina against.
Mr. Davis of Georgia for, with Mr. Murray against.
Mr. Multer for, with Mr. Thompson of Texas against.
Mr. Miller for, with Mr. Williams against.
Mrs. Kelly for, with Mr. Battin against.
Mr. Murphy of New York for, with Mr. Glenn Andrews against.
Mr. Aspinall for, with Mr. Curtin against.
Mr. Carey for, with Mr. Herlong against.
Mr. Feighan for, with Mr. Rogers of Texas against.

Until further notice:

Mr. Gilligan with Mr. Martin of Massachusetts.
Mr. Morrison with Mr. Tupper.
Mr. Edwards of Louisiana with Mr. Minshall.
Mr. Long of Louisiana with Mr. Mathias.
Mr. Leggett with Mr. Fino.
Mr. Senner with Mr. Hosmer.
Mr. Ullman with Mr. Martin of Alabama.
Mr. Cohelan with Mr. Collier.
Mr. Cameron with Mr. Corbett.
Mr. Blatnik with Mr. Mosher.
Mr. Hawkins with Mr. O'Konski.
Mr. Gallagher with Mr. Shriver.
Mrs. Green of Oregon with Mr. Bob Wilson.
Mr. Rivers of Alaska with Mr. Charles H. Wilson.
Mr. St Germain with Mr. Evans of Colorado.
Mr. Schisler with Mr. Diggs.
Mr. Van Deerlin with Mr. Johnson of Oklahoma.
Mr. Denton with Mr. Willis.
Mr. Landrum with Mr. Laird.
Mr. Tuten with Mr. Baring.
Mr. Hansen of Iowa with Mr. Ottinger.
Mr. Smith of Iowa with Mr. McCarthy.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CREATING A SELECT COMMITTEE ON STANDARDS AND CONDUCT

Mr. PEPPER, from the Committee on Rules, reported the following privileged resolution (H. Res. 1013, Rept. No. 2012), which was referred to the House Calendar and ordered to be printed:

H. RES. 1013

Resolved, That (a) there is hereby established a select committee of the House of Representatives to be known as the Select Committee on Standards and Conduct (referred to hereinafter as the "Select Committee") consisting of twelve Members of the House of whom six shall be selected from members of the majority party and six shall be selected from members of the minority party. The chairman and other members

thereof shall be appointed by the Speaker of the House of Representatives.

(b) Vacancies in the membership of the Select Committee shall not affect the authority of the remaining members to execute the functions of the Select Committee, and shall be filled in the same manner as original appointments thereto are made.

(c) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business, except that the Select Committee may fix a lesser number as a quorum for the purpose of taking sworn testimony. The Select Committee shall adopt rules of procedure not inconsistent with the rules of the House governing standing committees of the House.

SEC. 2. (a) It shall be the duty of the Select Committee in its discretion to—

(1) investigate allegations of improper conduct which may reflect upon the House, violations of law, and violations of rules and regulations of the House, relating to the conduct of individuals in the performance of their duties as Members of the House, or as officers or employees of the House, and to make appropriate findings of fact and conclusions with respect thereto;

(2) recommend to the House, by report or resolution by a two-thirds vote (eight members) of the Select Committee, disciplinary action to be taken with respect to such violations which the Select Committee shall determine, after according to the individuals concerned due notice and opportunity for hearing, to have occurred;

(b) the Select Committee from time to time shall transmit to the House its recommendations as to any legislative measures which it may consider to be necessary for the effective discharge of its duties.

SEC. 3. For the purpose of this resolution the Select Committee or any subcommittee thereof is authorized to sit and act during the present Congress at such times and places within the United States, whether or not the House has recessed or adjourned, to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, and documents, and to take such testimony as the Select Committee deems necessary. Subpenas may be issued under the signature of the chairman of the Select Committee or by any member designated by such chairman and may be served by any person designated by such chairman or member. The chairman of the Select Committee or any member thereof may administer oaths to witnesses.

SEC. 4. As used in this resolution, the term "officer or employee of the House" means—

(a) an elected officer of the House of Representatives who is not a Member of the House;

(b) any person whose compensation is disbursed by the Clerk of the House.

AMENDING SECTION 4, DISTRICT OF COLUMBIA INCOME AND FRANCHISE TAX ACT OF 1947

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8058) to amend section 4 of the District of Columbia Income and Franchise Tax Act of 1947, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, line 12, strike out all after "this" over to and including line 3 on page 3 and insert "Act."

The SPEAKER. Is there objection to

the request of the gentleman from South Carolina?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

Mr. McMILLAN. Mr. Speaker, the purpose of H.R. 5058 is to restate, by amendment, certain provisions of the Income and Franchise Tax Act of the District of Columbia—act of July 16, 1947; 61 Stat. 328—as amended by the act of May 3, 1948—62 Stat. 206—relating to foreign corporations which have a place of business, an officer, or representative located in the District of Columbia for the sole purpose of doing business with the United States.

The necessity for this restatement of a portion of section 4 of title I of the Income and Franchise Tax Act arises as a result of a recent interpretation by the government of the District of Columbia which imposed tax liability for the first time on foreign corporations which maintain an office or have representatives in the District of Columbia who merely deal with Federal agencies because this is the seat of the National Government. This restatement makes it clear that "noncommercial" activities will not subject persons or corporations to taxation.

The pending bill, H.R. 8058, as recommended by your committee, is designed as a restatement of the existing law to remove the confusions which attend its present administration. The substance and purpose of section 1 of the bill remains the same as the similar provisions of the existing law. It does not enlarge nor narrow the original intent of the Congress or the longstanding policy of the Congress regarding tax liability of foreign corporations doing business with the United States. Section 1 provides that the definition of the term "trade or business" in the Income and Franchise Tax Act of 1947, as amended, shall not include sales of tangible personal property by a foreign corporation which maintains any office or place of business or has an officer, agent, or representative located in the District of Columbia for the sole purpose of dealing with the United States for commercial or noncommercial purposes or of dealing with the District of Columbia or persons for noncommercial purposes.

Dealing with the United States for commercial purposes relates to any activities involving the sale of tangible personal property produced outside of the District of Columbia and which comes to rest outside of the District of Columbia. Dealing with the United States, the District of Columbia, or persons for "noncommercial purposes" applies to activities not related to the sale of tangible personal property.

SENATE AMENDMENT

The Senate amendment strikes the retroactive provisions of section 2 of the bill, as well as the requirement for refund or credit for payment or assessment in prior years, and makes the bill effective prospectively only.

The House Committee on the District

of Columbia deemed the interpretation of the District government as being without support in the language of the Income and Franchise Tax Act or by any intent of the Congress; it was the feeling that all corporations, which had been subject to any action by the District government and had made overpayments of taxes or might be subject to any overpayment of taxes, should be treated as equally as possible by a retroactive provision, provided in section 2 of the bill, to extinguish any possibility of further tax assessments by the District of Columbia and bring about reimbursement of tax overpayments, without interest.

The House language did not, in effect, deprive the District of Columbia of tax revenues since there has never been any final determination that the District of Columbia government had the authority under existing law to enforce such collections. The result of the House-passed retroactive provisions is that it merely restores the District of Columbia to the financial position it enjoyed prior to the misinterpretation of the exemption provisions of the act.

The Senate Committee on the District of Columbia stated in its report with respect to its amendment as above, as follows:

It is your committee's judgment that the statutory changes in the applicability of the franchise tax be applied prospectively only. Because the committee's intent is clear as to the tax liability of a "sole purpose" office, it is directed that the District government not proceed administratively to enforce its interpretation of liability against other potential corporate taxpayers for the preceding years.

The House Committee on the District of Columbia reluctantly accepts the Senate amendment, and in doing so it asks the House to concur in the same with the understanding that the District government shall not proceed administratively, and it is so directed, to enforce its erroneous interpretation of liability against any corporate taxpayer for the preceding years referred to in the House-passed language.

Your committee believes that the amendment proposed in section 1 of the bill preserves the right granted to every person, including corporate bodies, for the opportunity to deal with their Government from and within the District of Columbia and particularly so when such persons or organizations find themselves present in the District solely because the District is the seat of the National Government. The assessing of taxes on an activity by a corporation, which activity is otherwise exempt, because such corporation engages in activities which are not themselves subject to tax, places the District of Columbia government in the position of taxing persons attending their own National Capital on matters which call them to the seat of the Government. This legislation, in the judgment of your committee, will clarify the tax position of business organizations regarding offices and representatives maintained in the District of Columbia for commercial and consultative purposes with the United States, and recommends that the bill as amended be approved.

DECLARING OLD GEORGETOWN MARKET AN HISTORIC LANDMARK

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 14205) to declare the Old Georgetown Market a historic landmark and to require its preservation and continued use as a public market, and for other purposes, with Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, after line 8, insert:

"Sec. 2. For the purpose of carrying out the provisions of this Act, there are authorized to the appropriated to the District of Columbia such sums as may be necessary, but not to exceed in the aggregate, \$150,000."

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

PURPOSE OF THE BILL

Mr. McMILLAN. Mr. Speaker, the purpose of this proposed legislation is to authorize and direct the Board of Commissioners of the District of Columbia to preserve the Old Georgetown Market, located at 3276 M Street, NW., as an historic landmark and to operate and maintain it as a public market. This use is the purpose for which this property was acquired by the District of Columbia more than 160 years ago.

The land on which the Old Georgetown Market is situated, presently described as lot 800, square 1186 of the District of Columbia, was conveyed to the District of Columbia by two deeds dated October 23, 1802, and December 27, 1802, respectively, both of which were recorded on January 5, 1803. These deeds specified that this land was so conveyed "forever for the use of a public market."

The property was used by the District as a public market until about 1935. For the past 21 years, it has been leased by the Commissioners to an automotive parts firm which is still occupying the premises, at a rental of \$250 per month.

PROVISIONS OF THE BILL

Section 1 declares the Old Georgetown Market a historic landmark, and directs the Commissioners to preserve the property as a historic landmark and to operate and maintain it as a public market.

The Commissioners are also authorized to enter into an agreement with the Secretary of the Interior to provide for the use of part of the property as a museum to be operated by the Secretary in connection with the Chesapeake and Ohio Canal.

Section 1 also states that the property shall not be used for any other purpose, unless used pursuant and subsequently enacted legislation specifically permitting other use.

Congress has already spoken on the desirability of preserving the historic

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

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HIGHLIGHTS: Senate agreed to conference report on labor standards bill.

SENATE

1. LABOR STANDARDS. Agreed to, 55-38, the conference report on H. R. 13712, to extend the coverage of the Fair Labor Standards Act to additional groups, including agricultural employees, and to increase minimum wages under the Act. This bill will now be sent to the President. pp. 21730-5♦
2. CIVIL RIGHTS. Rejected, 54 yeas to 42 nays (a two-thirds vote being required), a cloture motion on H. R. 14765, the civil rights bill. pp. 21631-8, 21690-8, 21716-30, 21751
3. INTEREST RATES. The Banking and Currency Committee reported without amendment H. R. 14026, to provide for more flexible regulation of maximum rates of interest or dividends payable by banks and certain other financial institutions on

deposits or share accounts, to authorize higher reserve requirements on time deposits at member banks, to authorize open market operations in agency issues by the Federal Reserve banks, etc. (S. Rept. 1601). p. 21622

4. SEA-GRANT COLLEGES. Passed with amendment H. R. 16559, to authorize sea-grant colleges. S. 2439, the companion bill, was indefinitely postponed. pp. 21708-16
5. SALT-WATER RESEARCH. Received from the Interior Department a proposed bill to provide for participation by that Department in construction and operation of a large prototype desalting plant. To Interior and Insular Affairs Committee. p. 21622
6. SCHOOL MILK. Sen. Proxmire spoke in support of the school milk program. p. 21645
7. FOOD NEEDS. Sen. Clark inserted an article on food needs of the world. pp. 21754-7

HOUSE

8. MILITARY-CONSTRUCTION APPROPRIATION BILL. Passed 346-3, as reported this bill, H. R. 17637. pp. 21569-93
9. CHILD NUTRITION. Conferees were appointed on S. 3467, the child nutrition bill. Senate conferees have been appointed. p. 21593
10. RURAL DEVELOPMENT. Rep. Evins, Tenn., inserted the President's statement on the importance of rural development. pp. 21600-2
11. WATER POLLUTION. Rep. Rhodes, Ariz., inserted the Republican Policy Committee's statement on the water pollution control program. pp. 21607-8
Rep. Vivian inserted testimony by Rep. William D. Ford favoring additional water-pollution control. pp. 21613-4
12. EXTENSION WORK. Rep. Natcher commended the work of 4-H clubs. pp. 21612-3
13. FOOD MARKETING. Rep. Rosenthal inserted an article analyzing the work of the National Commission on Food Marketing. pp. 21615-7
14. SEEDS. The Agriculture Committee reported with amendments H. R. 15662, to make various amendments to the Federal Seed Act (H. Rept. 2042). p. 21619
15. LAND BANKS. The Banking and Currency Committee voted to report (but did not actually report) S. J. Res. 153, to provide for medals in commemoration of the 50th anniversary of the Federal land bank system. p. D876

ITEMS IN APPENDIX

16. SEA-GRANT COLLEGES. Speech in the House by Rep. Downing in support of legislation to establish and operate sea-grant colleges and programs. p. A4807
17. TEXTILES. Rep. Whitener inserted the reply of the Avondale Mills president to Sen. Curtis' recommendation that the government "abandon the understanding

day's service, whereas only 24 of these jurors will actually serve. Many of these civil cases are settled shortly before trial, but the jurors must be summoned an appreciable period in advance of the trial and we will not know which cases will be settled. There is, of course, a corresponding increase in the numbers of jurors required for use in criminal cases where the defendant is entitled to ten challenges and the Government uses six strikes.

Section 1866(d) requires service in person or by registered or certified mail. We have never encountered any difficulty in contacting jurors by telephone but, I admit, if the juror has a good excuse for non-attendance on a particular day the deputy clerk will generally call that particular juror on a later day and proceed to the next name on the list.

It is my understanding that once a group of qualified jurors has been validly drawn to serve for a particular period of time—whether it be one month or six months—there is no constitutional right to another drawing for an individual case from the list of qualified jurors. A second drawing by lot is unnecessary. *Albizu v. United States*, 1 Cir., 88 F. (2d) 138, cert. den. 301 U.S. 707. The right to an impartial jury is one of rejection, not selection. *Tierney v. United States*, 4 Cir., 280 Fed. 322, cert. den. 259 U.S. 588; *United States v. Marchant*, 25 U.S. (12 Wheat.) 480, 481; *Philbrook v. United States*, 8 Cir., 117 F. (2d) 632, cert. den. 313 U.S. 577.

In summary, the drawing from the "qualified juror wheel" for individual cases will cause confusion, waste of time for jurors, and untold expense. As I interpret § 1866(c), it would require a separate drawing for each case. I trust that I am incorrect in this assumption.

5. Finally, the wisdom of § 1867(a) and (c) is without sound reasoning. In 19 years as a practicing attorney and 12 years as a federal judge, I have never seen a criminal case or a civil case in which a defendant cannot benefit by a continuance. An attorney representing a criminal defendant, or a defendant in a civil case, would not be "worth his salt" if he did not "move to stay the proceedings" on the day of trial for the purpose of challenging compliance with selection procedures in every case. He has nothing to lose and everything to gain. In the meantime, witnesses are in attendance from distant points. They may never be available again. Jurors are in attendance and must be excused for the day. Challenges involving the selection of the jury require many hours for hearing. The jury commissioner and clerk (or deputy clerk) who drew the jury may not be readily available. Since § 1867(c) prohibits the disclosure of the names of jurors except "during the pendency of the case"—and we do not know whether this means after suit is instituted or after the case is called for trial and prior to the introduction of evidence—it will result in an untold congestion of court dockets and will completely disrupt the judicial system. The attorney challenging compliance with selection procedures is certainly entitled to a reasonable time to prepare this phase of the case. Since the drawing from both the "master jury wheel" and the "qualified jury wheel" must be public, it seems to me that any defendant in a criminal case and any party in a civil case should be required to exercise any challenge a minimum of two weeks prior to trial to enable the Court to dispose of this matter.

CONCLUSION

There are many other defects in the proposed system which come to my mind, but time does not permit further comment. The Judicial Conference of the United States has a special Jury Committee to which this pro-

posed legislation should be referred for study before final enactment.

Faithfully yours,

WALTER E. HOFFMAN,
U.S. District Judge.

I wish only to discuss one other matter before concluding. That has to do with the District of Columbia. I requested the chief judge of the district court, Judge McGuire, to comment on title I. He asked Judge Holtzoff to answer my letter. Judge Holtzoff is responsible for the operation of the jury system in the District of Columbia and was a member of the Judicial Conference Committee on the Operation of the Jury System whose report was adopted in 1960. Judge Holtzoff's reply demonstrated some of the great problems inherent in title I. He also requested that the District of Columbia be exempted from title I. This position is supported in the city's press and I would like to read a recent editorial by the Washington Star. It reads:

[From the Washington (D.C.) Star,
Aug. 25, 1966]

WASHINGTON JURORS

The jury section of the 1966 civil rights bill, whatever its merits or otherwise as it would apply to states in the South, makes no sense in the Nation's Capital.

The intent of this provision is to prevent discrimination against Negroes in selecting jurors, and numerous devices have been employed to exclude them from jury service in the South. But this is not the case in Washington. The names of prospective jurors in this city are taken at random from the city directory. There is no racial identification. And the proportion of Negro jurors actually serving is approximately equivalent to the percentage of Negroes in the city's population.

Under the provisions in the bill as passed by the House the names of jurors would have to be taken from voter registration lists. In Washington, this would automatically exclude a substantial number of jurors who live in the city but who vote elsewhere. It would also work a hardship because Washingtonians can vote only in presidential election years, whereas in the states the voters go to the polls, and register if required by state law, every other year.

The problem which this presents here may not be insuperable. But in the absence of any suggestion of discrimination, it is both pointless and a source of needless difficulty. When the Senate gets around to acting on this bill, an amendment exempting Washington from the juror provision should be high on the priority list.

There are compelling reasons for this request. The District Court for the District of Columbia is not an ordinary Federal court. It is the only one which operates both as a State court and as a Federal court. It is the court of general jurisdiction for the entire city. As such, it has more business of a local and a specialized nature than the other Federal courts, which are restricted to purely Federal questions and which leave ordinary legal business to State courts.

Further, the District of Columbia utilizes an unbiased, comprehensive source for jurors' names. The city directory lists the names of every resident in the District. Since names are chosen by lot from the list, there is no chance of discrimination of any kind.

The voter registration lists in the District come nowhere near covering all

eligible residents of the city. Since the city votes only in presidential elections, registration only occurs every 4 years. Most people in the city are highly transient, and many retain their voting registration in their own home States. It has been estimated that less than 50 percent of the adult population of the city registers to vote. Clearly, use of the registration lists would be completely unsatisfactory. Under the language of the bill, the jury commission will be required to use this worthless list even though it presently has a perfect alternative. This just makes additional useless work for the busiest Federal court in the country.

Further, the city's courts send out between 2,000 and 3,000 questionnaires each month to get new jurors. This amounted to over 26,000 new names being sought last year. Almost 1,000 names are drawn from the qualified lists each month, or over 11,000 each year. In the district court alone, almost 8,000 persons were summoned, and over 3,000 jurors were accepted for jury duty last year. For 8 months of the year, 700 jurors each month were summoned.

Because of the excellent system now employed by the District Court for the District of Columbia, and because of its extraordinary need for jurors—it has been estimated that jury trial is waived in the District only 3 percent of the time as opposed to 85 percent for the national average—the city should not be saddled with the burdensome title I. There has been no criticism of the District's jury system from any quarter on the grounds of discrimination of any kind. The judges of the District court feel that title I would cause chaos in the court. I see no earthly reason why the District should be included in this bill. Based on these facts, I offered an amendment which would exempt the District from title I. It was defeated in the subcommittee by one vote. Should the bill be acted on despite my urgings, I hope my amendment will be judged on its own merits and accepted by the Senate.

Mr. President, I realize that this speech was lengthy. Its length was necessary, I believe, to inform the Senate and the Nation exactly what title I means to the existence of the right to trial by jury as we have known it for so long. Because all eyes have been drawn to other sections of this bill, I fear there may be a feeling in some parts that title I is relatively innocuous; that because it deals with a matter clearly within the power of Congress, it can be passed without any question of constitutional defects.

Since it does not strike so immediately at the rights of all Americans, as does the open occupancy title, there may be sentiment that title I can be allowed to go on the books with little harm to the Nation.

It is precisely because title I threatens to sneak through that I oppose it so strenuously. It has not been considered carefully by this Congress. Only by the extraordinary step of writing to each Federal chief judge and having clerks from all over the country come to testify at the subcommittee's request, did we

discover its inequities. And their analysis, I repeat, demonstrates the great weaknesses and unforeseen evils hidden in the recesses of this bill.

We do not know the costs of this bill, either in dollars or in its effects on the proper administration of the courts. The clerks have testified that they are overburdened with work already, and greatly understaffed. The backlog in our heavily populated districts continually requires that we add more judges to the bench. This bill would inundate the courts with useless and duplicatory work, to an end as one judge has written, of obtaining not better juries but merely more numbers.

Even now, the administrative office is determining the additional costs that enactment of title I would impose upon the judiciary. Their study is not yet complete, but from the incomplete estimates they now have, it has been estimated that title I would add over \$20 million to expenses of the Federal courts.

Careful study of the bill and recommendations by the proper legal bodies are essential. If this is allowed, the result will be, not politically motivated legislation hidden and largely ignored in a controversial civil rights bill, but legislation drafted with a true regard for the preservation of this age-old right to an impartial trial by a jury of one's peers. This cannot be accomplished if cloture is invoked today.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. CARLSON in the chair). If the Senator from North Carolina will permit the Chair to make this statement, under the unanimous-consent agreement of September 12, the Senate will now proceed to the consideration of the conference report on H.R. 13712.

Mr. ERVIN. Mr. President, in view of this previous order of the Senate, I am unable to finish my speech at this time; and for this reason, I ask unanimous consent that I may be permitted to complete this speech on a later occasion, without having the completion of it counted as an additional speech on the motion to take up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIRKSEN. Mr. President, I should like to say to the Senator from North Carolina that I do not know how long it will take to finish the conference report. There possibly will be two amendments of some importance. My understanding is that 3 hours have been allocated to this matter, and tentatively we had set the vote on the cloture motion at roughly 6:30. That would preclude the use of the hour that is generally allowed under the rule, so that there might not actually be any time left.

Mr. ERVIN. That is the reason why I have asked unanimous consent that I may be allowed to complete this speech on a subsequent occasion.

Mr. DIRKSEN. That is right.

Mr. ERVIN. Without having my additional remarks counted as an additional speech.

The PRESIDING OFFICER (Mr. HARRIS in the chair). Is there objection to the request of the Senator from North Carolina? The Chair hears none, and it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1966—CONFERENCE REPORT

Mr. YARBOROUGH. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13712) to amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The assistant legislative clerk read the report.

(For conference report, see House proceedings of September 6, 1966, CONGRESSIONAL RECORD, pp. 20825-20830.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

The PRESIDING OFFICER. The Chair announces that under the unanimous-consent agreement, debate on the pending business will be limited to 3 hours, to be equally divided and controlled by the Senator from Texas [Mr. YARBOROUGH] and the minority leader [Mr. DIRKSEN].

Who yields time?

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DIRKSEN. The first discussion, I take it, will come on the conference report itself; and then, if by chance there is a request for a record vote on the conference report, that will be the first order of business.

The PRESIDING OFFICER. The Senator is correct.

Mr. DIRKSEN. If by chance the conference report should be rejected, it will then be in order, I think, to offer the amendments that are proposed and then will follow whatever votes will come.

Mr. President, I shall be unavoidably detained for a little while at a leadership meeting which begins at 3 o'clock; so I assign the time to my distinguished friend, the Senator from Vermont [Mr. PROUTY], who is a member of the committee, the time to be rationed as he sees fit.

Mr. YARBOROUGH. Before the distinguished minority leader leaves, I should state that it is our intention, when sufficient Senators are on the floor, to ask for a yea-and-nay vote on the adoption of the conference report.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. DIRKSEN. Mr. President, I ask unanimous consent that it not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. YARBOROUGH. Mr. President, I yield myself such time as I may need on the presentation of the conference report.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. YARBOROUGH. Mr. President, the Fair Labor Standards Act Amendments of 1966 as agreed to by the conferees of the Senate and House will raise the minimum wage to \$1.60 per hour by February 1, 1968 for the 29.6 million presently covered workers, and will extend the protection of the act to over 8 million newly covered workers. I ask consent that there be printed at this point a table showing the numbers added to those now receiving the protections of the act.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Estimated number of nonsupervisory employees added to coverage by H.R. 13712, as agreed to in conference (Data relate to cash wages plus an allowance for tips equal to 50 percent of the applicable minimum wage rate for "tipped occupations")

Industry	Number of employees		
	Added to coverage	Earning less than \$1 an hour	
		Number	Percent
	Thousands	Thousands	
All nonsupervisory.....	8,068	1,042	13
Retail trade.....	1,500	64	4
Restaurants.....	425	45	11
Hotels and motels.....	275	49	18
Hospitals and related			
Institutions.....	1,471	237	16
Miscellaneous services.....	50	8	16
Laundries.....	505	111	22
Agriculture.....	1,390	180	46
Transit systems.....	65		
Agricultural processing			
in area of production.....	90	14	16
Taxis.....	100	14	14
Logging.....	37		
Cotton ginning.....	34	5	15
Construction.....	581	27	3
Federal Government.....	685		
All other industries.....	2,186	298	16

¹ Average, May to October 1965.

² Includes nonsupervisory employees of public and private primary and secondary schools and schools of higher education.

NOTE.—Coverage estimates relate to scope of coverage in 1969; they do not reflect estimates of employees of employers providing contract services for the U.S. Government.

Mr. YARBOROUGH. H.R. 13712 as approved by the conference will provide a minimum wage for newly covered non-farmworkers of \$1 an hour beginning February 1, 1967. This minimum rate will be raised in four annual increases to \$1.60 an hour beginning February 1, 1971.

For workers now covered by the act, the minimum wage will be raised from \$1.25 to \$1.40 an hour beginning February

1, 1967, and to \$1.60 an hour 1 year later, on February 1, 1968.

Farmworkers unless exempted will be provided a minimum wage of \$1 an hour, to be raised in two annual increases to \$1.30 an hour beginning February 1, 1969.

In addition to raising the minimum wage the bill will extend protection of the Fair Labor Standards Act to more than 8 million employees. Included are workers in retailing, construction workers, laundry and drycleaning, transit, restaurant, and food service workers; employees engaged in agriculture, agricultural processing, and logging; employees of hotels, motels, hospitals, and institutions of higher, secondary, and elementary education. It would also incorporate basic wage policies for Federal wage board employees, certain employees of naval facilities whose wages are established to conform with those of private establishments in the vicinity where they work, and employees of nonappropriated fund instrumentalities. The wages of these Federal employees are now dependent in part on administrative discretion.

The legislation which we are considering today is a necessary step in remedying present inadequacies of the Fair Labor Standards Act. I strongly urge favorable consideration of this conference report, and I shall explain the provisions of the bill agreed on.

1. "ENTERPRISE" COVERAGE

Before the 1961 amendments to the act, coverage was limited to individual employees who were themselves engaged in commerce or in the production of goods for commerce. The 1961 amendments expanded coverage by adding protection for those employed in an "enterprise engaged in commerce or in the production of goods for commerce." However, the "enterprise" coverage was subject to an annual sales test of \$1 million. Separate dollar tests for the construction industry—\$350,000—and gasoline service establishments—\$250,000—were provided.

Section 3(a) of the present bill would reduce the million-dollar test to \$500,000 for 2 years, and then to \$250,000. The House insisted that the \$250,000 figure be retained. There would be no dollar tests for enterprises engaged in: First, laundering, cleaning, or repairing clothing or fabrics; second, construction; or third, the operation of hospitals and related institutions and institutions of education.

"Mom and Pop" stores—those establishments in which the only employees are the immediate family of the owner—continue to be excluded, and their sales are not to be used in determining the annual gross sales of any "enterprise."

2. TIPS

Section 3(m), defining the term "wage," is amended by adding to the section a provision that the wages paid by an employer to a "tipped employee" are to include tips. There is a limitation that tips cannot exceed 50 percent of the applicable minimum wage. The House accepted this figure as adopted by the Senate. A tipped employee is defined in section 3(t) as any employee en-

gaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips.

3. REVISION OF EXEMPTIONS

A. HOTELS, MOTELS, RESTAURANTS, SEASONAL AMUSEMENT AND RECREATIONAL ESTABLISHMENTS, AND HOSPITALS AND RELATED INSTITUTIONS

The bill repeals the minimum wage and overtime exemptions now provided in section 13(a)(2)(ii) and (iii) for hotels, motels, restaurants, and hospitals and related institutions, but restores the overtime exemption for hotels, motels, restaurants in a new section 13(b)(8).

As amended, the exemption in section 13(a)(2) would be limited to any retail or service establishment: First, having more than 50 percent of its annual dollar volume of sales of goods or services being made within the State wherein it is located; and second, not within an enterprise described in section 3(s), or having an annual dollar volume of sales which is less than \$250,000.

The definition of a "retail or service establishment" in section 13(a)(2) remains unchanged. It is defined as an establishment 75 percent of whose annual dollar volume of sales of goods, services, or both is not for resale and is recognized as retail sales or services in the particular industry.

Expressly carved out from the exemption are establishments or employees engaged in laundering, cleaning, or repairing clothing or fabrics or establishments engaged "in the operation of" hospitals and related institutions, elementary and secondary schools, and institutions of higher education which are within the new "enterprise" coverage. The House insisted upon its inclusion of elementary and secondary schools, but the conferees spelled out that teachers and academic administrative employees would not be covered.

The minimum wage and overtime exemption contained in section 13(a)(20) for any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption is repealed, but the overtime exemption is retained in a new section 13(b)(18).

The minimum wage and overtime exemption in section 13(a)(2)(ii) for seasonal amusement and recreational establishments is limited to establishments which do not operate for more than 7 months annually, or which have average receipts for any 6 months of the year which do not exceed one-third of their average receipts for the remaining 6 months of the year.

B. LAUNDRY AND CLEANING ESTABLISHMENTS

The minimum wage and overtime exemption of any employee employed by any establishment engaged in laundering, cleaning, or fabrics (section 13(a)(3)) is eliminated.

C. AGRICULTURAL WORKERS

The bill covers only agricultural workers on the largest farms—the so-called agribusiness enterprises—which used 500 man-days of agricultural labor in any calendar quarter of the preceding year.

A "man-day" is defined in a new sec-

tion 3(u) as meaning any day during which an employee performs agricultural labor for not less than 1 hour. This provision preserves the substance of the Aiken amendment adopted by the Senate.

Certain employees are to be excluded from both the general man-day count and from the coverage of the act. These employees are not included in determining whether an individual farm exceeds the 500 man-day criteria, and are not covered even though employed by a farm which does meet the criteria. The employees who are so excluded are:

(1) the parent, spouse, child, or other member of an agricultural employer's immediate family;

(2) an employee who (a) is employed as a hand harvest laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment, (b) commutes daily from his permanent residence to the farm on which he is so employed, and (c) has been employed in agriculture less than 13 weeks during the preceding calendar year; and

The bill also provides a minimum wage exemption for the children of migrant workers if such children are

(a) sixteen years of age or under and are employed as hand harvest laborers, (b) paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment, (c) on the same farm as their parents, and (d) paid the same piece rate as employees over age sixteen are paid on the same farm.

Although the employment of these children is exempt from the minimum wage requirements, such employment will be included in the 500 man-day count. The House conferees accepted this Senate provision. The conferees agreed to exempt from minimum wage coverage employees engaged in the range production of livestock, although such employees may be counted in the 500 man-day test for coverage.

In addition, the Senate provision exempting from overtime coverage certain employees engaged in sugar processing was retained in the bill, as was the Senate coverage under this act of sugar fieldworkers. The House insisted that the Senate recede from its exemption of certain farm hand cultivation workers, and the provision for averaging the piece rate compensation paid farmworkers to determine minimum wage compliance.

The bill removes the present minimum wage exemption in section 13(a)(16) for agricultural employees employed in livestock auction operations.

Exemption from the overtime requirements of the act would be preserved for any employee employed, first, in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways for agricultural purposes, and, second, in connection with livestock auction operations—now sections 13(b)(12) and (13), respectively.

D. AGRICULTURAL HANDLING AND PROCESSING

The bill revises the exemptions relating to agricultural handling and processing contained in section 13(a) and section 7 of the act.

The exemptions in section 13(a) for

the following employees have been replaced by new overtime exemptions in section 13(b): First, employees employed by country elevators; second, employees employed in the ginning of cotton; third, employees engaged in the transportation of fruit and vegetables or the transportation of farmworkers; and fourth, the sugar processing employees mentioned above.

In regard to the overtime exemptions in agriculture processing, the final result agreed on is almost identical to the Senate provisions, and markedly different from that provided by the House.

The present exemptions for agriculture processing employees are continued in new sections 7(c) and 7(d). Section 7(c) provides a 14-week overtime exemption for employees employed in a seasonal industry, limited to 10 hours a day and 50 hours a week.

The new section 7(d) provides a 14-week overtime exemption, limited to 10 hours a day and 48 hours a week, for employees in an enterprise which is in an industry found by the Secretary of Labor to be: First, engaged in handling, processing, and so forth, of perishable agricultural or horticultural commodities in their raw or natural state; and second, seasonal in nature or characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of such commodities from farms.

If an employer qualifies for an exemption under both section 7(c) and 7(d), as is generally true in the processing of agricultural products, each exemption is limited to 10 weeks, making 20 weeks the maximum aggregate period of exemption available to an employer under these sections.

E. SMALL NEWSPAPERS

Section 13(a)(8) of the act presently provides a minimum wage and overtime exemption for employees of certain small newspapers if the major part of the newspaper's circulation is within the county in which it is both printed and published, or contiguous counties. This section is amended so that the major part of the newspaper's circulation need only be in the county in which the newspaper is published or contiguous counties, as in both House and Senate bills.

F. TRANSPORTATION COMPANIES

The minimum wage and overtime exemption for employees of street, suburban or interurban electric railways, or local trolley or motor bus carriers in section 13(a)(9) is amended by repealing the present wage exemption and by providing an overtime exemption for operating employees. The Senate amendment which attempted to narrow the overtime exemption was rejected by the conferees.

The minimum wage and overtime exemption for employers in the taxicab business in section 13(a)(12) is narrowed to an overtime exemption for taxi drivers in section 13(b)(17).

G. LOGGING CREWS

The present minimum wage and overtime exemption for logging crews of 12 or less is amended to exempt crews of 8 or less beginning February 1, 1967, in accord with the House bill.

H. AUTOMOBILE, AIRCRAFT, AND FARM IMPLEMENT SALES ESTABLISHMENTS

Section 13(a)(19), exempting any employee of establishments engaged primarily in selling automobiles, trucks, or farm implements from the act's minimum wage and overtime requirements is repealed, and an overtime exemption is provided for salesmen, partsmen, and mechanics employed by nonmanufacturing establishments engaged primarily in selling automobiles, trucks, trailers, farm implements, or aircraft to ultimate purchasers. The resulting language follows the House exemption—including the Senate floor amendment—but with a somewhat narrower scope.

I. GASOLINE SERVICE STATIONS

The overtime exemption for employees of gasoline service stations in section 13(b)(8) is repealed.

J. PETROLEUM DISTRIBUTION EMPLOYEES

The unlimited overtime exemption of petroleum distribution employees of the type described in section 13(b)(10) is modified in an amendment of section 7(b)(3) by requiring the payment of time and one-half the applicable minimum wage for hours worked in excess of 40 in any workweek. Also, if such employees work in excess of 12 hours in any workday or 56 hours in any workweek, they must be paid at a rate not less than one and one-half times their "regular" rates of pay.

K. RESIDENT APARTMENT CARETAKERS

The Senate amendment exempting certain resident apartment caretakers was rejected by the conferees.

4. INCREASE IN MINIMUM WAGE

A. PRESENTLY COVERED EMPLOYEES

Employees now covered by the Fair Labor Standards Act would be entitled to a minimum wage of not less than \$1.40 an hour beginning February 1, 1967, and not less than \$1.60 an hour beginning February 1, 1968.

B. AGRICULTURAL EMPLOYEES

The minimum wage for newly covered agricultural employees would not be less than \$1 beginning February 1, 1967; \$1.15 an hour beginning February 1, 1968; and \$1.30 an hour beginning February 1, 1969.

C. NEWLY COVERED EMPLOYEES

Employees newly covered by the act, except agricultural employees, would be entitled to a minimum wage of not less than \$1 an hour beginning February 1, 1967; and, through annual increases, to \$1.15, \$1.30, \$1.45, to the \$1.60 an hour over a 4-year-period. Thus by February 1, 1971, all nonagricultural employees subject to the act would be receiving a minimum wage of at least \$1.60 an hour.

5. EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

A two-step increase in existing wage order rates would be provided in Puerto Rico and the Virgin Islands—12 percent the first year and 16 1 year later. The review committee procedures provided in the 1961 amendments to the act are retained to assure that the increase in minimum wage orders will not adversely affect employment.

The minimum wages of employees in Puerto Rico and the Virgin Islands covered by the act for the first time would be established by special industry committees subject to the usual standard of

reaching as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed for the employees involved.

The House provisions for workers under contract services for the Federal Government were adopted with a modification. The bill now reads:

"(e)(1) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof), every employer providing any contract services (other than linen supply services) under a contract with the United States or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965 (41 U.S.C. 351-357) or to whom subsection (a)(1) of this section is not applicable, wages at rates not less than the rates provided for in subsection (b) of this section.

"(2) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof) and the provisions of the Service Contract Act of 1965, every employer in an establishment providing linen supply services to the United States under a contract with the United States or any subcontract thereunder shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (b), except that if more than 50 per centum of the gross annual dollar volume of sales made or business done by such establishment is derived from providing such linen supply services under any such contracts or subcontracts, such employer shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (a)(1) of this section."

7. FEDERAL EMPLOYEES

The bill would incorporate in a new section 18(b) of the act the policy of paying minimum wages and overtime pay as required by the act to certain Federal wage board employees, employees of naval facilities whose wages are established to conform with those in the immediate vicinity, and to employees of nonappropriated fund instrumentalities of the Armed Forces. The provision contemplates the continuance of existing administrative procedures relating to the payment of these workers, but it removes from the realm of administrative discretion the ultimate minimum wage floor.

The minimum wage applicable to these Federal employees will be the section 6 (a)(1) rate—that is, the rate for presently covered workers—except that in the Canal Zone the minimum wage schedule for newly covered workers will apply. The Senate receded from its amendment providing a minimum wage for witnesses in Federal court.

B. APPLICATION OF MAXIMUM HOURS PROVISION

A. PRESENTLY AND NEWLY COVERED EMPLOYEES

The bill would retain the basic concept of time and one-half for hours worked in excess of 40 in a workweek. However, there are three-step adjustments to this standard in the case of nonfarm employees to be covered by the act by virtue of the bill. For these employees, the maximum workweek would be 44 hours during the year commencing February 1, 1967; 42 hours during the year beginning February 1, 1968; and 40 hours after February 1, 1969.

B. COMMISSION SALESMEN

The bill provides that in determining the proportion of compensation representing commissions for purposes of the

overtime exemption in the present section 7(b) of the act, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions without regard to whether they exceed a draw or guarantee.

C. HOSPITAL EMPLOYEES

The bill permits hospitals to calculate their overtime on a biweekly rather than weekly basis, provided that employees are paid time and one-half their regular rates of pay for workdays in excess of 8 hours and for hours worked over 80 in a 14-day work period. This basis of computing overtime may be used only where the employees of the hospital have reached an understanding with their employer that the work period is to be a period of 14 consecutive days. The Senate amendment was adopted.

D. NURSING HOME EMPLOYEES

The bill contains a modified Senate amendment exempting nursing home employees from overtime coverage if their hours worked are less than 48 in a week; above 48 hours weekly, time and one-half would be due.

E. BOWLING ESTABLISHMENT EMPLOYEES

Similarly, a modified Senate amendment exempting bowling establishment employees from overtime coverage for hours under 48 worked in a week was adopted.

9. ENIWETOK AND KWAJALEIN ATOLLS AND JOHNSTON ISLAND

An amendment of section 13(f) of the act makes its provisions applicable to employees in Johnston Island and in the Eniwetok and Kwajalein Atolls.

10. HANDICAPPED WORKERS

At the present time section 14 of the act allows the Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, to permit the employment of handicapped workers at wages lower than the applicable minimum wage. In accordance with the Senate amendment, the bill adds two new subsections to section 14 relating to the employment of handicapped workers in sheltered workshops and the establishment of work activity centers.

The bill provides that handicapped workers employed in sheltered workshops must be paid wages commensurate with those paid nonhandicapped workers for essentially the same kind of work, but not less than 50 percent of the applicable minimum wage. However, special certificates may be issued by the Secretary for less than the minimum wage in proportion to the worker's productivity where the work is incidental to a training or evaluation program, or under exceptional circumstances where handicaps prevent an individual from engaging in competitive employment.

The conference bill specifies that this provision is to apply also to handicapped workers employed in agriculture.

The bill also authorizes the Secretary to establish special rates of compensation for handicapped workers employed in work activity centers. A "work activity center," as this term is used in the bill, means an establishment designed exclusively for workers whose physical or mental handicap is so severe as to

make their productive capacity inconsequential.

The Secretary is directed to conduct a study by July 1, 1967, of wage payments to employees of sheltered workshops and the feasibility of raising wage standards in such workshops.

11. SPECIAL WAGE RATES

The House provision providing for certification by the Secretary of Labor of full-time students for employment at less than minimum rates is retained, including provision for students employed in agriculture. The House receded from its provisions relating to management trainees and new employees.

12. CHILD LABOR IN AGRICULTURE

The bill contains the Senate amendment which would prohibit the employment of any child below the age of 16 in an occupation in agriculture found by the Secretary of Labor to be particularly hazardous.

13. STUDIES

The bill directs the Secretary of Labor to begin immediately a complete study of present practices dealing with overtime payments for work in excess of 40 hours per week and the extent to which such overtime work impedes the creation of new job opportunities. The Secretary is to report his findings and recommendations to the Congress by July 1, 1967.

In accordance with a Senate amendment the Secretary of Labor is directed to make a study of the wage rates paid to Federal employees in the Canal Zone and their effect on canal operation and report to Congress by July 1, 1968.

The Senate provisions relating to age discrimination were replaced by a substitute calling for the Secretary of Labor to submit specific recommendations on age discrimination in employment to Congress by January 1, 1967.

The Senate provision calling for a study and recommendation by the Secretary of Labor regarding emergency strike laws was not agreed to by the conferees.

14. OTHER

Section 601 of the bill amends the FLSA and the Portal Act—which contains the statute of limitations for FLSA—to provide a 3-year—rather than a 2-year—statute of limitations for causes of action arising out of a willful violation of this law. The Senate amendment regarding renegotiation of certain contracts was not agreed to.

In closing, the bill represents an effort to fulfill the promise of the original act and to reestablish its role as the major instrument of the Nation's fair labor standards policies. It reflects a reexamination of current needs to remove substandard working conditions and an effort to change the act to remedy those needs.

I strongly urge adoption of the conference report.

Mr. President, I urge the adoption of the conference report in full.

Mr. President, I ask unanimous consent that such members of the staff of the Committee on Labor and Public Welfare as are needed in connection with the conference report be permitted to be on the floor of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROUTY. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Vermont [Mr. PROUTY] is recognized for 10 minutes.

Mr. PROUTY. Mr. President, first I wish to quote from a letter that I sent to Senators last Monday:

I voted to report the Minimum Wage bill in the Committee on Labor and Public Welfare. I voted for its passage in the Senate. I signed the Conference Report, but informed the conferees that inasmuch as they had deleted two of the most important provisions in the Senate-passed bill, I would seek to have these put back when the Report was called up in the Senate.

Mr. President, I might add that when an amendment was offered on the floor to the minimum wage bill to exempt all farmworkers from its coverage I voted against that amendment.

The letter continues:

Therefore, when this action takes place next Wednesday I shall urge that:

- (1) The Conference Report be rejected
- (2) Another Conference be requested
- (3) The conferees be instructed with respect to the two provisions listed below

The provisions in the Senate-passed bill which I wish to restore, and which will be voted on separately if the question of instructions to the conferees is pending are:

(A) The piece-work provision for hand harvest workers

(B) The exemption for small business enterprises having sales of less than \$350,000 annually

In no sense can a vote to reject the Conference Report be construed as a vote against the Minimum Wage bill, and this is particularly true if one voted for or was positioned in favor of H.R. 13712 when it passed the Senate. A vote to "reject" means nothing more than using the only parliamentary procedure available to maintain provisions in the Senate-passed bill which are so vital to the welfare of the farmers and small businessmen in the country.

I hope I may have your support when the votes are taken.

Mr. President, I wish to make it unmistakably clear that I am not opposed to a minimum wage bill. I have supported it consistently, but in my judgment those of us who served as Senate conferees perhaps did not work as hard as we might have in support of the amendments adopted on the floor of the Senate, or in the subcommittee and the full Committee on Labor and Public Welfare.

Mr. President, I hope that the Senate will reject the conference report on H.R. 13712. I wish to emphasize that I have no desire to kill the minimum wage bill. There are many things in this legislation which I wholeheartedly support. However, I am convinced that the agricultural piece-rate provisions and those which provide for the exemption for small business enterprises which were in the bill which passed the Senate must be included in this legislation.

Due to the parliamentary situation which exists, it is necessary for the Senate to reject the conference report before further action can be taken. I wish to make it clear, however, that following rejection of the conference report, I shall immediately move to return the bill to conference with the House and to instruct the Senate conferees to insist

upon the piece-rate provisions for agriculture and the \$350,000 retail exemption for small business.

Mr. President, the payment of fair and equitable piece rates to hand harvest labor is an established custom in the fruit and vegetable segments of American agriculture. The average able-bodied and willing worker has always been able to make in excess of the proposed minimum wage and will have no difficulty in continuing to do so, even under the agricultural minimum wage of \$1.30 per hour which becomes effective in 1969.

Recognizing this fact, I was successful in having such an amendment adopted in the Committee on Labor and Public Welfare by a vote of 10-6. This action was bipartisan, with 5 Democrats and 5 Republicans voting in favor of the amendment.

This amendment provided that where the average of the weekly aggregate earnings of all hand harvest workers equals or exceeds the applicable minimum wage for agriculture, the minimum wage requirements of the Fair Labor Standard Act would be considered as having been met.

This provision was subsequently modified by the committee to provide that even where this formula was met, each individual harvest employee must be paid at least 75 percent of the minimum wage regardless of his productivity. This compromise was accepted because we believed that the majority party members of our committee who agreed to it would insist that it be retained in conference. Accordingly, no attempt was made to disturb this compromise when the minimum wage bill was considered on the floor of the Senate.

I am certain that the votes were here on the Senate floor to adopt our piece-rate proposal without the compromise. I am afraid that those of us in the committee who really believe in the merits of the agricultural piece rate were the victims of strategic planning. Taking the piece-rate proposal in committee prevented it from being raised as an issue in the Senate, and our acceptance of the compromise cleared the way to completely eliminate this section in the conference.

In hindsight, it is abundantly clear that we should have fought for the piece rate on the floor of the Senate, and retained the provision providing each individual with a floor of 75 percent as a means of accommodating conflicting points of view at the conference.

At the joint conference, the House conferees immediately took the position that the Senate should recede on this issue, and a majority of the Senate conferees agreed.

While the piece rate was not seriously discussed with the House conferees, it was taken up at some length at a caucus of the Senate conferees. The caucus determined to recede on this issue as part of a package covering many other items. This package was summarily rejected by the House conferees, however, and the Senate conferees then voted to recede on the piece-rate provisions by a vote of 8 to 3.

Mr. President, much has been said about the piece rate permitting exploitation of farm labor. The historic practice of paying harvest labor in this manner has been compared to the piece-rate practices of many years ago which existed in some of our factories.

Mr. President, no valid comparison can be made of these wholly unrelated practices. In the industrial sweatshops, which unfortunately did exist at one time, a low piece rate was used to force high production if the employee was to earn a living wage. But the earnings of one employee in a factory were dependent upon the same high production from other employees engaged in an assembly line operation or a similar operation where the production of one employee was directly related to the production of other employees performing a different operation on the same product. To insure high profits at low piece rates, the motivation came from the employer to insure that all employees produced at as high a level as possible.

This is absolutely not true in agriculture. Paying piece rates to harvest workers enables an able bodied and willing worker to earn much more than any minimum wage. The earnings of one worker are in no way dependent upon the production of any other worker, and the profit of the employer—the farmer, in this case—does not depend upon uniform high production by all employees. The motivation to produce in agricultural piece-rate employment, then, comes from the individual worker and not from the man who employs him.

These differences, Mr. President, were ably pointed out by the senior Senator from Texas in discussions before our committee.

No, Mr. President, paying agricultural harvest labor on a piece-rate basis most certainly does not permit exploitation of farm labor. During 1965, piece rates for the harvest of fruit ranged from 17 to 35 cents per unit, and averaged between 22 and 25 cents. Able-bodied harvest workers easily made between \$2 and \$3 an hour at these rates—sometimes more.

Much has also been said about this legislation covering only large commercial farms. I have reservations about this when I consider the fact that an apple grower who produces only 15,000 bushels of apples over a 6-week harvest season will exceed the 500-man-day test.

A farmer harvesting apples, who employs 45 harvest hands who work 6 days a week, will be charged with 540-man-days in a 2-week period—30 harvest hands for three 6-day weeks also equals 540 man-days.

Be that as it may, is there anyone in this Chamber today who does not believe that in time every farm in this country will become subject to this legislation? That being the case, should we not consider all our farmers and their practices in defining the application of this act on them at the time we are initially bringing agriculture under the minimum wage provisions?

In considering this legislation, we must consider the unique nature of agriculture and its special problems. The piece-rate provisions do this by striking a fair balance between minimum wage coverage

for farmworkers and the effect of such coverage upon our farmers.

Mr. President, I want to make it clear that I voted against an amendment offered in the Senate which would have eliminated all farmworkers from minimum wage coverage. I want to emphasize that I favor and am not opposed to such coverage. However, my vote, as well as many of my colleagues I am sure, was predicated on the assumption that the piece-rate work system provided in the Senate bill would be retained.

Mr. President, the retention of piece-rate payments in agriculture is absolutely essential, and will in no way undermine the agricultural minimum wage provisions.

In the first place, all employees must earn at least 75 percent of the applicable minimum wage. In the second place, the piece rate must return an average hourly wage in excess of the required minimum wage. This will insure that piece rates are set at a level to reward the productive workers.

Unfortunately, the present farm wage statistics published by the Department of Agriculture do not include piece-rate workers. There is a big gap in statistical data. But it is well known that competent piece rate workers earn a good bit more per hour or per day than workers employed on an hourly or daily basis. This is all to the good and will be continued under the piece rate provisions of the Senate bill. This system of wage payments is uniquely suited to agriculture and should be retained.

Mr. President, the essential reason for a piece-rate system in agriculture is the seasonality of farm work. Most farmers, including those producing labor intensive crops, do not need to employ a large number of workers during most of the year. However, at harvest time, they need substantial numbers for periods ranging upward from several weeks.

Because of the temporary nature of such work and the sharp rise in demand for labor at harvest time, farmers normally employ practically anyone who is available. The agricultural work force consists of persons with widely varying qualifications. Farmers employ the aged and the infirm and the lazy as well as the young and the able-bodied and the willing worker.

Many of these workers set their own pace. Because of the wide range of qualifications, competence and characteristics that farm workers bring to their jobs, farmers have a limited opportunity to establish work standards.

For many harvest workers, hours are irregular. They come to work at different times; take different and varying lunch and rest periods; and quit work at different times of the day. Unlike industry, agricultural work cannot be regulated by assembly line processes.

Because of these tremendous variables, farmers have used the piece rate method in determining the earnings of hand harvest workers. This is generally preferred by both the farmer and his workers. It is equitable as between workers who have varying degrees of capability and productivity.

To impose on this system a guaranteed hourly minimum would have disruptive

consequences. Without a piece-rate system, we will see the least capable of the farm work force disemployed. Farmers will accelerate the process of mechanization, which in the short run will create more unemployment. And, in many cases, the smaller farmers will be hard pressed to stay in business.

These effects will be moderated to some degree by the provisions of the Senate passed bill which I am attempting to retain.

For example, take the case of a farmer harvesting apples. During the week, his workers average \$1.40 an hour at a time when the minimum wage is \$1.30 an hour. The earnings of the individual workers range from \$1 an hour to \$2.20 an hour. Under the provisions of the Senate bill, the farmer would be in compliance because the average earnings exceed the minimum hourly wage required and because no worker is receiving less than 75 percent of the required \$1.30 per hour. Accordingly, it would not be necessary for the farmer to pay any supplemental payments to the less productive workers.

I believe that this is a reasonable proposal. It requires the farmer to pay the minimum wage on an average basis, but will permit him to employ at least some of the less productive workers.

Mr. President, I am also convinced that if piece rates in agriculture are destroyed, we will be doing a disservice to the highly qualified farmworker. It is the piece-rate system that enables these workers to make high earnings. As I noted earlier, the available statistics are woefully inadequate, but it is common for workers on piece rates to earn more than employees paid on other bases.

If we establish a flat minimum hourly guarantee, I have no doubt that the productive worker will be penalized. Farmers will have little alternative but to pay the minimum rates we establish. If we make their wage bill on harvest piece rates prohibitive, they may well have no alternative but to pay all workers the same hourly rate regardless of productivity or effort. No room will remain for an incentive system of payment, and the earnings of a large majority of hand harvest laborers will be substantially reduced.

Mr. President, if the conference report is adopted in its present form, and the farmers attempt to retain the agricultural piece rate, they will be faced with a dilemma at peak harvest time.

On the one hand, a farmer may refuse to hire the marginal and nonproductive workers—those who cannot produce at the level of the minimum wage that must be paid. This will result in the nonproductive worker—regardless of the reasons for his nonproductivity—becoming an unemployable, thereby increasing unemployment among those now permitted to work and earn according to their productive capacity.

In addition, the refusal of the farmer to hire nonproductive workers at peak harvest will mean in many, if not most, instances that the farmer will be unable to harvest his entire crop. It does not

require an economist to tell us that decreased production will mean increased prices of the farm commodities for sale to the consumer.

On the other hand, the farmer may choose to hire nonproductive labor in order to prevent leaving a substantial part of his crop in the fields to rot. This, of course, would result in employment of nonproductive workers at hourly wage rates which exceed their productive capabilities. But the farmer's labor cost will also be increased and again, this increase can only be absorbed by raising the prices of farm commodities to the consumer.

It is perfectly clear, therefore, that if the agricultural piece-rate provisions are not restored to this bill, products will increase in price because of either, first, a smaller harvest, or second, increased labor costs. Either way, the effects will be detrimental to our economy in general, and to agriculture and agricultural employees in particular. Either way, the present inflationary trends will be drastically increased and our farmers, already in a poor position when compared to our other industries, will be placed in an even worse position.

Speaking of inflationary trends, Mr. President, even if the agricultural piece rate is retained, there is going to be a very real increase in the prices of fruits and vegetables to the consumer. If the piece rates are not retained, the increases in the prices of these foods may well get out of hand.

In this respect, I refer to the report of this bill from the Committee on Labor and Public Welfare submitted by the senior Senator from Texas. The following appears on pages 20 and 21:

The cost of bringing seasonal agricultural wages up to \$1.25 an hour is approximately equal to 1 cent per unit for most vegetables and fruits—per pound or per dozen or per head or whatever the ordinary unit may be. If retail prices go up more than that and if the increase is blamed on rising labor costs in the fields, the American housewife should demand a complete and immediate congressional investigation.

This report, then, states that a 1-percent-per-unit increase is justified and implies that such an increase is inconsequential—a 1-cent-per-unit increase for fruits and vegetables, and again I quote—"per pound or per dozen or per head or whatever the ordinary unit may be."

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PROUTY. I yield myself 5 additional minutes.

Mr. President, I happened to glance at an advertisement of a major chain-store which appeared in last Thursday's edition of the Burlington, Vt., Free Press. At random, I noted the following prices: Cooking apples, 11 cents a pound; tomato catsup, 20 cents a bottle; canned peaches, 27 cents a can; baked beans, 25 cents a can; canned corn, 18 cents a can; fruit cocktail, 34 cents a can; California oranges, 18 cents a pound; and frozen corn, frozen spinach, and frozen peas, 25 cents a package. From the language of the Senate report, I assume that these are ordinary units,

Mr. President, do you know what the 1-cent-a-unit increase endorsed by the committee report would do to the prices of these fruits and vegetables?

It would raise the price of apples by almost 10 percent; the price of catsup by 5 percent; the baked beans by 4 percent; the fruit cocktail by almost 3 percent; the California oranges by more than 5 percent; and the frozen packages of peas or corn or spinach by 4 percent.

The formula used for the calculation of these increases was applied to the Senate bill containing the piece-rate provisions. Without the piece-rate provisions in the bill, this formula loses its validity. The greater additional increases in harvest costs to the farmer will have to be added on, and the 3- to 10-percent increases in fruit and vegetable prices which the committee indicates are warranted and can be absorbed by the economy become merely conservative estimates.

If the piece rates are not returned to this bill, perhaps the American housewife should ask for an investigation—an investigation of how individuals and groups unfamiliar with farming or its problems were able to get legislation enacted which completely disrupts established harvest practices of American agriculture and substantially increases what the housewife must take from her food budget to pay for fruits and vegetables.

Mr. YARBOROUGH. Mr. President, in considering what has been done with respect to farm labor under the bill, we should consider what was done in the House vis-a-vis the position of the House and the Senate.

There were some 10 changes in conference in the bill as it came from the Senate. In three of these, the House position prevailed. In seven of them, the Senate position prevailed.

The bill that comes from the conference gives less protection to agricultural workers than the original bill which came from the House.

In the first place, the House prevailed in these three instances. We passed the piecework averaging provision. It provides that if a farmworker gets paid on a piece rate basis, such as by the bushel or the sack or the pound, the wages are averaged with respect to what all the people working on that farm make. It is averaged out and the minimum becomes the average wage. In that way we pull down the wage to make the minimum wage the average. That is not done by industry.

It means that the minimum wage becomes the average wage. That is not a fair labor standard to pay a man. In effect, it pulls the floor down and makes the minimum wage the average wage, provided it equals 75 percent of the minimum wage. So in effect, it fixes the wage at 75 cents rather than \$1 an hour for agricultural workers.

The House would not recede. It was a major point of the four or five points. The House would not recede on that. The Senate conferees voted on it. The vote to recede was 8 to 3.

The next was the provision pertaining to logging crews. Under the House

provision, a logging crew consisting of more than eight, had been included. Under the Senate version of the bill, if a logging crew exceeded six it was included. The House provided that if a crew, whether working in the pine forests of the South or the pulp mills of the North, consisted of more than eight, it would be included. The Senate receded, and the House position prevailed.

Mr. PROUTY. Mr. President, will the Senator yield me 1 minute on my time?

Mr. YARBOROUGH. I yield.

Mr. PROUTY. Is it not correct that the present law relating to logging crews is 12 and that the House reduced it to 8 and the Senate reduced it further?

Mr. YARBOROUGH. Certainly. I said the House position of eight prevailed and the Senate receded.

Next I come to the hand cultivation provision. That was the McGee amendment, and it was taken to conference. The House deleted it from the bill.

Those are the three points with respect to farm labor on which the House prevailed.

The Senate position prevailed in seven instances.

The first was with respect to workers engaged in range production of livestock.

The second was the Aiken amendment which was adopted on the floor and provided that if a person worked less than 1 hour a day, it would not be counted as 1 day. Senators will recall that under the provision of coverage for man-days, the criterion was how many days a man worked. The hours were not the criterion, but the days. There had to be 500 man-days in any one calendar quarter. A regular 3-month calendar period was covered. There was no limit. There was no limit on the hours worked in that day. If a man showed up and did not work because it rained, for example, that day would be counted as a day worked, and the next day he could work 17 hours, and it would still be 2 man-days of work.

The Aiken amendment provided—under the doctrine of *de minimis non curat lex*—that if a man, for example, worked 35 minutes, it did not count as a day, even though he might work 18 hours the next day. And workers often do that. When I was privileged to work during the wheat harvest in my younger days in Texas and Kansas, I had a team of horses that I had to feed, water, and groom, and get the wagon ready. There was hard pitching of wheat all day, and it was hard work. My job was to water and feed and groom the horses. My days were about 18-hour workdays.

So the Senate's position prevailed in that instance.

The third position in which the Senate prevailed was with respect to seasonal processing in canning plants. It is a long and complicated operation, but it can briefly be called agricultural processing. That provision was in conference between the House and the Senate. The amendment which was adopted in the Senate committee was a bipartisan amendment. It made it easier for the canners, which means it was harder on labor. That amendment was accepted in conference by the House.

The fourth provision in which the Senate position prevailed had to do with overtime exemption for sugar processing employees. It was an amendment offered by the Senator from Louisiana [Mr. ELLENDER] which was accepted by me, taken to conference, and the Senate position prevailed in conference.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield.

Mr. HOLLAND. That amendment was offered by the Senator from Louisiana and the two Senators from Florida.

Mr. YARBOROUGH. I thank the Senator from Florida. I am glad to have that additional information. It was an amendment by the Senator from Louisiana and the senior Senator and junior Senator from Florida.

We were told it was a vital amendment for sugar processing. The amendment was taken to conference, and the Senate position prevailed.

The fifth point was strenuously contested. It was a provision that was accepted in the Senate committee, was adopted by the Senate, and was in conference between the two Houses. It related to the exemption of certain hand-harvest laborers who are 16 years of age or under and are paid on a piece-rate basis.

Under the bill as it came from the House, this exemption is broader in its exclusion. It is a long and complicated provision, but it offers less protection to the farm laborer, and the House accepted that provision.

Another one that gives protection to child labor was the Senate amendment, adopted in committee, retained on the floor, and held in conference—which for the first time gives protection to child labor in agriculture—providing that employment of children under 16 in agriculture is prohibited when it is an extra-hazardous occupation. Certain types of farm labor, due to the high incidence of injury and death, are extrahazardous occupations. That provision, which provides the first protection we have had for children in agriculture under any bill, was retained.

So in seven of these instances, the Senate provisions on farm labor prevailed, and in only three did the House provisions prevail. I think it ill behooves us here to say, where we have prevailed in 7 points, that because we did not prevail in 1 or 2 others, we ought to defeat the whole conference report, with 38 points in it, most of them bitterly contested. But I take it that is the point of the distinguished Senator's letter—that because he does not agree with 2 points out of 38, we ought to destroy the result of many weeks of work in the Committee on Labor and Public Welfare, 3 long days of debate on the floor of the Senate, and then 2 very full, long days in the conference committee with the House.

The able Senator from Vermont says, "Since I do not agree with two things that have been done, let us send the matter back and start all over again." To me that seems, Mr. President, to be a rather unreasonable position to take. But I wish to point out some facts.

I do not yield to the distinguished Senator one instant in his concern about the high cost of living. To the people who write me, phone me, and come to see me, that is a prime article of concern. But I say the Senator's fears are ill-founded as far as this minimum wage bill is concerned, particularly as it applies to the situation in Vermont. I refer him to the Crop Reporting Board compilation of farm labor wages of June 1966, showing what farm labor is paid in the United States. In the State of Vermont, the average wage, if the employee comes and works on a farm without room and board, for a day laborer, is \$1.34 an hour. If room and board are included, his average wage, living on the farm, is \$1.11 an hour. All of the New England States are above the minimum wage even after 2 years have elapsed, after we get up to the \$1.30 an hour. Not a single State in New England is not already paying farm laborers more than \$1.30 an hour right now.

This is the latest information we have on farm wages in the United States.

I point out that the average family farm is not affected at all. According to the 1959 census of agriculture, there were 3,708,000 farms in the United States; and, Mr. President, of those 3,708,000 farms, 3,160,000 farms do not have a single hired hand working for them—not 1, all the year long. The work is done by the farmer, his wife, his children, his parents, and such cousins and other relatives as may live with them. In this whole great American agricultural empire, with the greatest agricultural productivity in the world, of our total of 3,708,000 farms, on 3,160,000, the farmer is doing the work with his own brawn and the help of his wife and family.

With the bigwigs hiring many employees and paying them 50 cents an hour, in competition with that family farmer, they are the ones who are destroying the family farmer. This legislation is the bill of rights for the family farmer. He pleads, "Let them pay their employees a dollar, because I and my wife and children are having to compete with 50-cent labor," and that is killing the farmers. It is driving them off the land, denuding this land of the kind of family farmers who built America. I believe that this bill is one of the greatest bills for the family farmer we have had in this century.

On the rest of the farms, the other 500,000, some odd, after we take out the 3,160,000 with no hired hands outside the family, there are 303,000 of those which have only 1 hired hand on them; and there are 113,000 farms in the United States with only 2 hired hands. There are 70,000 farms with 3 to 4 hired hands. There are 38,000 farms with 5 to 9 farmhands, and only 24,000 in the entire United States with more than 10 farmhands.

Mr. President, the test, in this law, is that a farmer's employees come under the protection of the minimum wage law and the Fair Labor Standards Act, if, in one quarter of the year, more than 500 man-days of hired work are done on his farm. That averages out to seven

full-time employees. The farmer must, in 1 quarter, have seven employees before he comes under the provisions of this Act, and before his employees come under the protection of the Act. How many farms would it cover? It covers only 1.6 percent of the farms of the United States; but it covers 39 percent of all farm workers, because the growth of the great corporate farms in this country is what is destroying the family farm.

How many farms are covered, in which States?

There are 6 States in which less than 100 farms are covered. Those States are Vermont, West Virginia, Rhode Island, New Hampshire, Alaska, and Delaware. In each of those 6 States, there are less than 100 farms which would be covered by this law.

In 19 other States, there are 100 to 500 farms covered. Less than 500 farms are covered in those 19 other States; and that makes a total of 25 States in the Union which have fewer than 500 farms covered. Those States, in which there are 100 to 500 farms only covered by this law, are Connecticut, Hawaii, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, Nevada, New Jersey, North Dakota, Ohio, Oklahoma, South Dakota, and Tennessee.

Those States have less than 500 farms which would be covered; and I believe, during the debate on this bill, the statement was made that there were 249 farms in Tennessee covered, and the distinguished senior Senator from Tennessee, in one of the ablest statements made in behalf of this bill, rose to his feet and said:

I am one of the 249 farmers to be covered, but my employees are entitled to these wages, and I am for the bill, and willing to bring them under the provisions of the law.

There are only 15 States, Mr. President, in which there are 500 to 1,000 farms which would be covered. Those States are Alabama, Georgia, Idaho, Iowa, Louisiana, Michigan, Nebraska, New Mexico, New York, Oregon, Pennsylvania, South Carolina, Virginia, Washington, and Wisconsin.

There are only 8 States which have enough farmers to have more than 1,000 farms come under the protection of this act, and those 8 States are Arizona, Arkansas, California, Colorado, Florida, Mississippi, North Carolina, and Texas. My State has more farms in it than any other State; more family farms than any other State, and, next to California, probably more large farms. But a poll was taken in my State, and the results were printed in all the large daily newspapers of the State. They took a poll of the people of Texas, because Texas and California have always been stated to be the two big farm States opposed to minimum wages for farm labor.

What did this poll say the people of Texas said?

Sixty-nine percent of the people of Texas said, "We want a minimum wage for farmworkers." Seventy-four percent of the 69 percent said it ought to be at least \$1.25 and up to \$1.50 an hour,

or more. But 69 percent said it should be at least a dollar. So the people of my State would support this action of giving protection. Many persons who work for big farm establishments or companies now receive 45 or 50 cents an hour. They are competing with the little family farmer. It is not fair competition with the 3,600,000 family farmers.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the number of farms that are covered in each of the 50 States of the Union.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DISTRIBUTION, BY STATE, OF FARMS WHICH WOULD BE COVERED BY H.R. 13712—SEPTEMBER 14, 1966

There are approximately 3½ million farms in the United States. The bill would extend coverage to approximately 33,000 farms, less than one percent of the total.

A. States in which less than 100 farms would be covered: Alaska, Delaware, New Hampshire, Rhode Island, Vermont, West Virginia.

B. States in which 100–500 farms would be covered: Connecticut, Hawaii, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, Nevada, New Jersey, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee.

C. States in which 500–1,000 farms would be covered: Alabama, Georgia, Idaho, Iowa, Louisiana, Michigan, Nebraska, New Mexico, New York, Oregon, Pennsylvania, South Carolina, Virginia, Washington, Wisconsin.

D. States in which 1,000 or more farms would be covered: Arizona, Arkansas, California, Colorado, Florida, Mississippi, North Carolina, Texas.

Source: Special survey prepared for the Wage and Hour and Public Contracts Divisions by the Department of Agriculture.

Mr. YARBOROUGH. Mr. President, on piece-rate work, the method of computing wages will not be destroyed. Farmhands may pick a certain crop for half a day. If it begins to rain, they will plow the land, if they are full-time employees. The work of some employees in industry is measured on a piece-rate basis, but they are paid on a hourly basis.

The Department of Labor has issued rules concerning persons paid on a piece-rate basis for a part of a day and on an hourly rate for another part of the day, and has prescribed how to determine an hourly wage.

In many instances, hand-harvest laborers in a certain area are paid on a piece-rate basis, while others are paid on an hourly basis. In my own State of Texas, in the Lower Rio Grande Valley, melon pickers in Starr County have been paid on an hourly basis, while right over the county line, which is a geographical, imaginary line, in Hidalgo County, most melon pickers have been paid on a piece-rate basis, until recently. Now that the new melon-picking equipment has been introduced, the method of paying workers has been changed from a piece-rate to an hourly basis on most farms.

In the San Joaquin Valley of California, the hand pickers of asparagus are paid on a piece-rate basis or an hourly basis, depending on the practice of the farmer.

Agricultural workers in the Benton Harbor, Mich., area are paid on a piece-rate basis by some employers, and on an hourly basis by others. So whether a worker is paid on a piece-rate or on an hourly basis depends on the custom in a given county.

The minimum wage provision will not destroy nationwide or countywide practices throughout America, if workers are engaged on an hourly basis. The facts do not sustain the claim that there is much piecework. That is not to say that work cannot be measured on a piece-rate basis, if the employer has to pay a minimum wage, or that the piece-rate worker cannot continue to be paid by the bushel. If he picks twice as many bushels of apples or peaches as another worker, he will still receive twice as much pay as the other worker.

This is a minimum wage bill. It does not fix the wage; it sets a minimum. We ought to leave the piece rate for the employer who wants to use it. But a rate lower than the minimum wage will not afford fair competition for the more than 3 million family farmers whose wives, children, and cousins live on the farm and will not enable them to survive on their family farms.

Mr. President, a parliamentary inquiry. The PRESIDING OFFICER. The Senator will state it.

Mr. YARBOROUGH. Mr. President, how much time have I remaining?

Mr. STENNIS. Mr. President, will the Senator first yield to me very briefly?

Mr. YARBOROUGH. Mr. President, I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I am certain that the Senator believes his facts are all accurate as he has stated them in respect of the small family farms.

I speak only for the area with which I am and have been personally familiar for a long time.

If I understand the English language at all, the pending measure would drive local farm labor away from the cultivation of cotton, because the farmers would not be able to compete with the wages established by the bill when it comes into full operation. They will not be able to pay that price for farm labor, particularly for the type of labor that has a low yield of production in the picking of cotton and in the chopping of cotton when it is young in the stalk.

The passage of this measure will work against that type of farm laborer. Such laborers will not be used once this bill is in full operation.

I know that certain exemptions are included in the bill, and that the farmer must have so many employees before the act would apply. However, when a cotton plant opens, as the Senator knows, it must be picked quickly, or otherwise it will start to deteriorate. There is a period of intense need for labor at that time.

A great many of the colored citizens who live in those rural communities look forward to this kind of labor as a very fine source of income. It is labor that they can do.

Even a so-called small farmer with 20, 25, or 30 acres of cotton does not have a large enough farm to justify the

purchase of a cotton picker. In many communities, there is not enough total acreage to justify the purchase by somebody of a picker. A cotton picker costs many thousands of dollars. Therefore, they do custom work.

The small farmer, if he wishes to remain in operation, is driven to the plan by which he must employ this local labor. Under the pending measure, in the course of time such a small farmer will be run out of business if he pays the price for labor contained in the pending measure.

As the Senator knows, we have not had the importation of any people from Mexico or any other foreign country to help pick cotton for a long time. That practice goes back to the old days, 20 years ago, almost before we had mechanical cottonpickers in the areas in which the land is so highly productive and the seasonal pressures are so great that they require the importation of farm labor. However, at the present time in what we call the hill section of the country conditions are just as I have described them.

I know enough about the situation from my own knowledge to know that it will not be possible for the small farmers to pay these wages. If someone from New Jersey wants to speak about the picking of fruit, I shall yield to him. But I do not like to have people who do not know the conditions in my part of the country say that I am mistaken and that they know more about my area than I do.

The pending bill has been very strongly supported by a good many city farmers, and I do not refer to the Senator from Texas. The city farmers are very positive concerning what the pending measure will do.

I think that is the tragedy of trying to legislate at the national level to the nth degree when it concerns small communities.

A great many of the people that I am talking about have been thrown out of employment in my State. Many of them are white people, and many of them are colored people. These people have been thrown out of their employment on the small farms.

The newspapers in an effort to seek publicity have gone there and gotten some of these people. They have brought them up here and let them camp on the park grounds in front of the White House.

There was a great deal of publicity about wages and everything else.

A great deal of that publicity was magnified. Some of it was unfortunately true. The surplus of this type of labor has already been thrown out of employment.

If this bill is passed, we will be adding fire to the flames and crushing the little people. A man who is producing 15 or 20 bales of cotton is certainly classed as a small farmer.

I refute the Senator's facts in that respect. I feel that anyone should be inclined to lend a helping hand to assist the little farmers to become adjusted so that the laborers can have a better chance to make a living.

I thank the Senator for yielding.

Mr. YARBOROUGH. Mr. President, I thank the Senator from Mississippi for his contribution. I have never purported to know as much about farming in Mississippi as does the Senator from Mississippi. The Senator comes from a rural community. He knows his State thoroughly.

Our report shows wages for all farm labor, not merely for the picking of cotton.

In my State, a person would make more money picking cotton than performing any other agricultural labor. I grew up in a cotton country.

The composite wage for farm labor in Mississippi is 67 cents an hour under this tabulation.

The composite wage per hour for farm labor in Oklahoma is \$1.19.

The composite wage per hour for farm labor in Texas is 99 cents an hour.

It is \$1.04 an hour in New Mexico.

It is \$1.19 an hour in Arizona.

It is \$1.54 an hour in California.

The distinguished Senator knows that cotton is not a perishable crop, as are peaches or plums.

Every bale of cotton, unless it be long staple, that is grown in one section of the country, is competing with a bale of cotton grown in another section of the country.

This cotton is ginned, baled, stored, and warehoused. It is then sent through a compress and compressed to a small size and tagged. It might go into Federal loans, and it might be years before it is marketed.

Cotton is not a perishable crop. It is a crop in which the cotton produced in one State competes with the cotton produced in another State.

I think these tabulations will illustrate that the State of Mississippi, like the State of Texas, has the same problem. They are 2 of the 9 States in which over 1,000 farmers would come under the law.

There are some very large farm operators in each of our States. However, in the State of Mississippi, as in the State of Texas, the overwhelming number of farmers are individual family farmers who do not hire a single farm laborer. They are individual farmers.

That is true in every State of the Union. There is not a State in which that is not true.

Only 1.6 percent of the farms in America would come under the coverage of this act.

If a farmer rents his land out, the man would not be covered by the act at all.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I do not have much time, but I yield for a question.

Mr. STENNIS. Talking about the competition existing in cotton, that is true across the board. However, an emergency situation exists concerning when cotton will be picked.

A man must hire a good number of pickers to get the cotton out of the weather, as we say.

Mr. YARBOROUGH. The Senator is correct. If the man does not use over 500 man-days in a quarter he does not

come under the new provisions. A farmer has to be a pretty big farmer to use over 500 man-days in getting his crop out. That requires a great deal of production.

Mr. President, a parliamentary inquiry. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has used 37 minutes.

Mr. YARBOROUGH. I yield to the Senator from New York.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. YARBOROUGH. Such time as the Senator requires.

The PRESIDING OFFICER. How much time does the Senator from New York require?

Mr. JAVITS. Ten minutes.

IN SUPPORT OF THE MINIMUM WAGE CONFERENCE REPORT

Mr. President, I rise to speak in support of this conference report. I am the ranking minority member of the Committee on Labor and Public Welfare and a conferee, and have worked constantly in respect of these hearings and in respect of reconciling our differences with the House, and I feel that this is a balanced bill and that it now deserves the support of the Senate.

I might say to my colleagues that, notwithstanding how I might have voted on any amendment, I will ask any member of our conference who wishes to advance an opinion on that score to contradict my statement that I fought for every Senate amendment with fidelity and sincerity. Whether I originally supported it or not was immaterial to me. I felt it my duty, as a conferee, to stand by what the Senate expected to do with respect to the bill.

Mr. PROUTY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. PROUTY. I want to explain, particularly with respect to the piecework proposal which we are now considering, that the Senator was opposed to it; but during the conference, or during a caucus among the conferees on the Senate side, he did suggest very strongly that we should make a real fight for it.

Mr. JAVITS. I am grateful to the Senator, my beloved colleague, with whom I work so closely. Nothing distresses me more about where we stand now than the fact that he and I should find ourselves on opposite sides of this question.

Mr. President, I think that perhaps the fact that we find ourselves on opposite sides of this question is rather constructive as to the dimensions of the question.

Let us understand that we are raising the minimum wage for 37 million Americans, 29 million of those whom were previously covered—29½ million, to be precise—and they are getting an increase in the minimum wage which is urgently demanded by the productivity of the country and the cost of living. Eight million are newly covered; and the agricultural workers concerned, who are part of that 8 million, are, in round figures, 400,000.

Let us not look at this matter through the wrong end of the telescope. I beg

my colleagues to remember our parliamentary situation. We will have a vote in the Senate on accepting or rejecting this conference report. That may be the only vote, to vote yea or nay on that question. If the yeas carry, that will be the only time a Senator will have an opportunity to vote. So every Senator had better think very carefully—even if he is dissatisfied, as I am sure many Senators are, and as I am, also, with some parts of this bill—about being recorded as against a measure which is of indispensable importance to some 37 million Americans. To me, that is the most serious question any Senator has to answer in this matter. That always happens in a hotly contested conference.

No one could have argued more vigorously—and, indeed, more effectively, and with greater sincerity and conviction and with more facts—than Senator PROUTY, in respect of the provision which was his creation, this provision with respect to averaging out, on a piece-rate basis, of agricultural wages.

But even that, Mr. President, represented what we lawyers call *de minimis*, because at my own behest we had written into that very section, during its consideration in committee, a 75-percent provision, so that even those employees who would be subject to averaging would still have to get 75 percent of the minimum.

Mr. President, when one considers the matter from that point of view, one realizes how relatively small the issue is upon which we are asked to overturn this monumental labor—and it is a monumental labor. The conference was hotly contested. It took a long time. There were a great many issues, more than usual. It took us time to get to conference, and the matter was hanging by a hair, because many members of the conference group had divergent ideas on different aspects of the bill.

To boil it down, first, this may be the only vote. A Senator will vote it up or down, and if he is recorded as "No," no one will examine his vote with a microscope to see whether he had in mind 400,000 agricultural workers. He will be voting "No" on a measure affecting some 36 to 37 million Americans whose minimum wage is at stake here; and that "ain't hay" as we say at the curbstone.

Second, even in respect to the agricultural workers, it is a fairly limited target. For one, I have already described this piece-rate provision which has a 75-percent minimum built in. For another, agricultural workers are not getting the same minimum as industrial workers and service workers are getting. Agricultural workers are getting a maximum of \$1.30, not \$1.60, and it will take them 3 years to attain that.

It is a historic milestone that agriculture should be included. But is it not high time that agriculture is included? Is it not high time, because we have more and more an industrial concept on the farm, and because we are encouraging that concept in terms of machinery and amplitude of acreage, that this should come into being?

In addition, as Senator YARBOROUGH has said, this applies to an infinitesimal percentage of the farms, and only 40 percent of the workers. So we are approaching the matter very gently, very delicately, very slowly, and by no means imposing the responsibilities in the agricultural field that we are imposing in the industrial and service fields.

Beyond that, we were very solicitous and concerned about this matter, and I should like to point out a number of things that we did in the conference report, in respect to the agricultural field.

For one thing, Mr. President, we retained that provision of the Senate bill which is very important to agriculture, I should imagine—though I do not pose as an expert on it—which is in sections 203(a) and 103, which would permit people who are employed for less than 13 weeks in agriculture, and who commute from their homes to another farm—the so-called worker in the neighborhood, as it were—and who are hand-harvest laborers, paid on a piece-rate basis, to be exempted from coverage and excluded from the so-called man-day count in determining whether a particular farm is covered. That certainly should be helpful to the farmer.

In addition, we made very liberal provisions in respect to full-time students, without regard to age, with respect to employment of as much as 20 hours a week in agriculture, at reduced rates. Those rates go to about 85 percent of the minimum.

Finally, we dealt with handicapped workers who, because of physical handicap, were incapable of a great deal of productivity. In that situation, the rate would be below the minimum.

This is all noted at page 14 of the conference report in the other body, which is before use, which deals with the special provisions applicable to full-time students and the special provisions applicable to handicapped workers.

To cap the whole matter, we put up a terrific battle for agricultural processing workers. In that respect, I think we made an extraordinary settlement, and for this reason: The House had actually voted, on a rollcall, to reject the 20-week concept and to stick by the 14-week concept. Nonetheless, we won in conference the 20-week agricultural processing overtime exemption.

I respectfully submit, considering the dimensions of the problem, in terms of the number of workers employed, in terms of the fact that we are not raising them to the minimum of other types of workers, in terms of the latitude which has been given in respect of local workers—that is, commuting to a farm, working for 13 weeks a year—in respect of the handicapped, in respect of the full-time students, and in respect of the agricultural processing workers, that we have really knocked ourselves out to give recognition to the agricultural sphere.

Finally, Mr. President, it seems to me that the main argument which is made against the conference report is that the measure will result in a dearth of agricultural workers. That argument is not germane to this issue because we are

going to be paying agricultural workers subject to the conference report more and not less than they are getting today. Therefore, logic would indicate that more workers would be available and not less workers.

As a matter of fact, farm prices—that is, farm prices received by the farmers—in terms of the cost of living which the consumer is now paying have materially increased. We are anxious to get more production.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, may I have 5 additional minutes?

Mr. YARBOROUGH. Mr. President, I yield 5 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, it seems to me, from the economic point of view, that a far more logical argument could be made that a rise in scale for farmworkers will bring in more farmworkers rather than fewer.

The real argument made is that farmers will not pay the increase, even at the risk of letting the crops rot in the ground. Considering the price of food today, I most respectfully submit that this is certainly a doubtful thesis. As I see it, that is the net effect of this argument. We have a reasonable increase in the minimum wage, already outstripped by the cost of living in proportion to the productivity of the country.

In agriculture there are represented a modest segment of those affected by the increase in the minimum wage. We have gone through all kinds of pay raises, and we have given exemptions to handicapped workers, full-time students, local workers, and children.

They defeated in conference—and it broke my heart—any hope of doing anything more about child labor. We have no child labor provision in this bill, except the provision prohibiting "particularly hazardous" agricultural employment. So children can work. It seems to me under all the circumstances that to ask for a modest minimum of 30 cents an hour less than they get for industrial and service workers represents a pretty fair settlement that we got from the House.

I wish to close as I began. Senators should remember when they vote that this may be the only vote and that the question will be the interests of 36 million to 37 million American workers. I believe that the agricultural segment has been fairly and liberally treated in the bill when all of the features have been taken into consideration.

Mr. YARBOROUGH. Mr. President, I shall have a question that I wish to ask the distinguished Senator from New York [Mr. JAVITS], but first I do want to congratulate him for his faithful attendance at the 14 sessions that we had in the subcommittee, in the full Committee on Labor and Public Welfare, and in the conference. He was present and his attendance at all of the sessions was very helpful. He is a skilled negotiator. The distinguished Senator from New York worked faithfully and diligently on the bill and in connection with its many provisions.

I am glad that the Senator has brought up the point about rejecting the report. If the bill were to go back to conference it would not be on the point set out in the letter of the Senator from Vermont [Mr. PROUTY]. It would go back to conference on everything. We may end up with no minimum wage bill this year. As the Senator from New York said, the fate of 37,800,000 workers is involved in this bill.

I thank the Senator from New York for his diligent work on the floor of the Senate, in the full committee, and in the subcommittee. We always considered the impact on business. The House conferees told us in conference, "Over here we consider only labor; you consider many other things." We considered whether any business would be disadvantaged in comparison with other businesses. We tried to present a bill to help disadvantaged businesses.

I wish to ask this question of the distinguished senior Senator from New York. Considering the attitude of the House conferees, and hearing everything that was said, if the Senate rejects the conference report and throws it back into conference, does the Senator from New York see any hope of getting better terms in accordance with the wishes of the Senate than we have?

Mr. JAVITS. I have rarely seen House conferees as adamant as they were in this matter. I believe that everybody who participated observed that. There was a terrific battle to get any concessions at all. I agree with the Senator. I would pledge the Senate to go back under any instructions and do my utmost to get a bill, but I cannot see that we could get one considering the adamant position that we saw when we were in conference, even on features that I considered to be inconsequential.

I yield the floor.

Mr. RANDOLPH. Mr. President, the Senator from New York [Mr. JAVITS] and the Senator from Texas [Mr. YARBOROUGH] have covered essentially those points on which I desire to focus the attention of the Senate, in reference to the best result we could expect if this measure is returned to a conference with the House.

The Senator from New York very correctly pinpoints the 37-million-plus workers affected by the constructive passage of this measure. I would like to add to the 37-million-plus, a figure which is perhaps even more important—the approximately 8 million men and women who, for the first time, will be covered by the provisions of the Fair Labor Standards Act, which originally was passed in the Congress of 1938, and has since been amended, and is now in the process of another reasonable and realistic amendment under consideration here, today, in the Senate.

To emphasize the concern and the commitment of the Senator from West Virginia in reference to any exemptions, the record will disclose that within the subcommittee, the committee, and within the conference, I argued vigorously for the point of the Senate legislation and particularly for certain advances that I had helped to write into the Senate version, which I believed were valid from

the standpoint of agricultural and rural interest of the United States, as affected by wage and hour legislation. The final point, Mr. President, is that I believe that if this measure is returned to a Senate-House conference, we in the Senate can expect a lesser degree of cooperation in meeting the viewpoints of the Senate measure than we obtained in the conference which brought this report to our two bodies.

Mr. President, I say this without disparagement of the Representative. I say it only as a realistic appraisal of the situation in which we found ourselves as conferees from the Senate. I think this body will do an injury to the wage earners of America if we allow this legislation to be returned to a Senate-House conference.

Mr. President, I wish to say with all the strength of my being on this matter—that I am intensely interested that there be no inequities, that there be no violence done to any segment of our society. I think it is important that we move forward in this area of constructive consideration of reasonable wages, reasonable working hours, and reasonable working conditions for the men and women of this country. The Senate conferees have brought to this body a measure which does not satisfy me in full, nor does it satisfy the Senator from New York [Mr. JAVITS] completely, he said, or even the able Senator from Texas [Mr. YARBOROUGH], who handled this legislation with such astuteness.

I stress this point, that this is an important vote which we are going to take and it will be weighed by the people of this country generally on the proposition: Shall we deny 37 million people plus, shall we deny 8 million people who are covered for the first time under the advantages which have been incorporated into this legislation as it comes with the report.

I compliment the Senator from Texas and the Senator from New York, members of opposite political parties who, with others, sat and worked on this problem. Frankly, we worked diligently. We worked effectively for a measure which the Senate should approve.

Mr. JAVITS. I am grateful to my friend, the Senator from West Virginia, for his very eloquent remarks. He really has put the situation in focus. Without remotely denigrating the position of the Senator from Vermont—he has every right to contend for what he is contending—all of us have to understand what motivated the great majority of the conferees.

There are two propositions: First, the number of those who will be disadvantaged by rejection of the conference report and who will be placed in jeopardy—almost 38 million as compared with 400,000; second, the honest judgment of a number of conferees that if we go back we are likely to do worse than we have presently done, in terms of what the Senate wants—if we get anything at all—and we may end up in a fracas, considering the adamant position of the House and the delicate character of the situation with respect to our agricultural workers and their employees.

Mr. YARBOROUGH. Mr. President, again I thank the distinguished Senator from New York for his great contribution to this conference report. I point out that of the 38 points with which we went to conference, the Senate prevailed on 21, the House on 17. Because we prevailed on most of the points, the House was adamant, although they were a congenial bunch; but they were not particularly pleased when we prevailed and the lines were hardening at the end. Therefore, I do not think we would make further progress if we went back to conference with this problem.

Mr. MORSE. Mr. President, will the Senator from Texas yield?

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. YARBOROUGH. Mr. President, I yield such time as the Senator requires of the time remaining.

Mr. MORSE. Mr. President, I should like to have 10 minutes, and should like to be notified in 10 minutes time.

The PRESIDING OFFICER. The Senator will be notified.

Mr. MORSE. Mr. President, I rise to plead with the Senate to defeat the Prouty amendment and accept the conference report.

I supported the Prouty amendment in the Labor Committee. I did everything I could to save the Prouty amendment in committee without amendment. Then we went to conference, and I want the attention of the chairman of the conference and my friend, the Senator from West Virginia [Mr. RANDOLPH], and the other conferees now in the Chamber. It developed that the burden of handling the so-called farm amendments fell to me by assignment of the chairman of the Senate conferees.

I had offered most of the farm amendments in committee. We got into conference and came up against a group of House conferees, the overwhelming majority of whom were against the Morse farm amendments. That is what confronted us in conference. We found ourselves in the position where we had to consider packages of amendments. The House conferees put two or three amendments together and we had to vote for the package. This is a simple procedure in conference.

The last point I will make as to what was attempted on the part of the House conferees, after we had agreed to all of the packages, because they still were insisting that they try to water down the Morse farm amendments.

The Prouty amendment was in one of the packages, but also in the package was the processing amendment. We had just gotten through the other package saving the Morse amendment in regard to migrant children.

Thus, Mr. President, we came out of conference with most of the farm amendments intact. We did recede on the Prouty amendment.

I have been home to Oregon since the conference and have talked to farm groups there since the conference report. I have also talked to representatives of the fruit industry in my State since the conference report, and I made a speech to an agricultural audience in

Oregon in regard to the problems which confront us in regard to the farm amendments.

In the course of that speech, I said:

I should also point out that nothing in this measure extends overtime coverage to agriculture.

Moreover, all food, lodging, transportation, and other services provided by the employer will be counted at value toward the \$1 an hour minimum. This minimum will become \$1 an hour next February and will rise to \$1.15 in 1968 and \$1.30 in 1969.

The one major Senate amendment that was lost in conference with the House was that permitting piece-rate wages, other than the exempted people I have mentioned, to be averaged. Under the amendment offered by Senator PROUTY of Vermont, and for which I voted in Committee, employers would be permitted to average the wages paid to piece-rate workers, and if the average were above the minimum, the minimum wage requirement would be considered to have been met.

Unfortunately, it was further amended, over my objection, to provide that in any case each employee in the average would have to receive at least 75% of the minimum. I thought this destroyed the whole advantage of averaging and I voted against it but it was adopted.

It was interesting to hear the forthright report of the Senator from New York [Mr. JAVITS] this afternoon when he pointed out that this was his amendment. He pointed out this afternoon that he offered the amendment, in effect, to water down the effect of the averaging amendment because it meant that at least 75 percent of the minimum would have to be paid irrespective of what the employee earned at piece rate.

I said in committee, as my colleagues know, that I could not vote for the Javits amendment for, when that 75 percent floor was added to the amendment, I considered that the Prouty amendment was pretty much emasculated. That has been my position.

In reporting to the agricultural group in my State, since adoption of the conference report, I gave them this report on what happened to the Prouty amendment in conference:

In conference with the House, the whole Prouty piece-rate averaging amendment was strenuously opposed by the House conferees. They pointed out that local commuters were already excluded by the Green amendment and the children of migrants by my amendment. They proposed that in addition, the physically handicapped also be excluded. The language of their amendment authorizes the Secretary of Labor to provide for the wage to be paid individuals whose earning or productive capacity is impaired by age or physical or mental deficiency or injury, except that it may not be less than half the minimum wage of \$1 an hour in agriculture.

By the time the youngest, the oldest, and the handicapped are removed from coverage, the virtue of averaging seemed no longer to apply.

So I have supported this version which emerged from the committee of conference. In talking with agricultural leaders in my State, they said they thought we came out of the House with an exceptionally good conference report from the standpoint of agricultural interests. Then I talked to representatives of fruitgrowers. They came to see me as to what chance there was to recommit

the conference report. I told them I would vote against it. I told them I was bound by something that the Senator from Vermont [Mr. PROUTY] was not bound by. The Senator from Vermont has made it clear that if his amendment was not included in the conference report, he would be free to do exactly as he is doing. I respect him for what he is doing as being forthright.

The fruit people of my State said we should not run any danger of losing the farm amendments we had saved in conference. They stressed also the processing amendment which I offered in committee. The committee members will remember I went up the hill and back down again three times before I was sustained. I would win one day. They would reverse me the next day.

That amendment provided for two 10-week periods of exemption from overtime. It called for 52 hours per week in the first 10 weeks before overtime would be paid, with 48 hours per week in the second 10-week period. That was one of the items in the package.

The House conferees finally agreed to it, if the 52-hour week was reduced to a 50-hour week. Part of the compromise was the recession made on the Prouty amendment. I told this to the fruit processors in my State. Their instructions to me were not to run any risk in going back to conference of losing the food processing amendment and other exceptions for farm labor that we have in the bill. The chief spokesman said he would rather have the processing amendment I have gotten in than three or four Prouty amendments. As far as the fruit growers are concerned, I would rather have the Prouty amendment. I am sorry we lost it.

I do not have to tell Senators what we have to do in working out conscionable compromises. With respect to getting the measure back to the House for a roll-call vote, one of their chief spokesmen said, "I am going to move to reconsider one of the amendments." He did not refer to one of the packages, but to one of the amendments. His plan was to reopen the processing amendment and seek to go back to the House with a 14-week period with overtime after 48 hours—

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. YARBOROUGH. I yield 2 more minutes to the Senator from Oregon.

Mr. MORSE. I opposed that. I made it clear that to reopen the food processing provision would jeopardize the entire bill. As an old horse trader, and I have been trading horses for 35 years, if I make a trade, I make good on the trade. The Senator from Missouri [Mr. SYMINGTON] who is in the Chamber, is a good horse trader. If I get a spavined horse, I keep it. I do not complain later that I did not see the spavin.

We came up with a conference report that favors the Senate in the agricultural field.

I agree with the Senator from New York [Mr. JAVITS], the Senator from West Virginia [Mr. RANDOLPH], and the Senator from Texas [Mr. YARBOROUGH]. If we go back to conference, everything is open again. We will have a hard time

in conference, if we go back, saving the gains we have made in the agriculture amendments that we were able to sustain.

When we take into consideration the 75-percent figure that was added over my objection to the Prouty amendment, when we take into consideration the Green amendment that exempts local communities from any Fair Labor Standards Act provision, when we take into consideration my amendment which excludes the children of migrant workers, when we take into consideration the conference language to exclude aged and handicapped workers with respect to the minimum wage, when we take all these people out, there is not much left to the Prouty amendment. There is not enough left to justify the agricultural interests going back to conference.

I think we would risk most of our gains to go back to conference. We should adopt the conference report.

Mr. YARBOROUGH. Mr. President, I desire to thank the Senator from Oregon for his work on the subcommittee, the full committee, and in conference. We divided the work. We asked him to take over what we knew was one of the most difficult phases of the bill; namely, in the field of agricultural labor, with all the exceptions and provisions in it, because it was the first time that agricultural labor in the history of our country has been covered by a minimum wage act.

Franklin Delano Roosevelt 29 years ago recommended a minimum wage for all working in the factory and on the farm. To me the conference report is a good one. In this difficult field we had no more knowledgeable man than the Senator from Oregon. We had 10 differing agricultural positions. The Senate prevailed in seven. The House prevailed in three. When the piece-rate amendment was taken out, we gained the canning amendment. If the bill is sent back to conference, this provision will then be in conference.

The PRESIDING OFFICER. The time of the Senator is expired.

Mr. YARBOROUGH. I yield myself 5 additional minutes.

The Senator from West Virginia who spoke on the conference report, was one of the most diligent and effective of our members. He spoke up for small business, and for the resort hotels that open up for only a few months of the year, and for agriculture and agricultural processing. He was interested in the canning industry and in the logging industry, and showed great knowledge and concern for their problems. He showed that he had a farsighted knowledge of the problems involved.

Mr. WILLIAMS of New Jersey. Mr. President, I would like to greatly applaud the work of the Senator from Texas for the most magnificent job which he did in managing this very difficult and controversial legislation both through this Chamber and through the Senate and House conference.

I believe that my views have previously been expressed by the Senator from Texas, the Senator from Oregon, and the Senator from West Virginia.

I however wish to state that this bill relates to farmworkers all the way from Homestead, Fla., to Burlington, Vt., from San Antonio, Tex., to Tacoma, Wash. We are in the process of establishing a most historical landmark, to include agricultural workers, within the framework of the Fair Labor Standards Act.

I wholeheartedly support the bill agreed to by the Senate-House conferees and strongly urge the Senate to adopt their report and to reject the motion made by the Senator from Vermont [Mr. PROUTY] to recommit H.R. 13712 to conference.

The average wage-piece-rate provisions for minimum wage payments to farmworkers which were contained in H.R. 13712 as passed by the Senate were rejected by the House conferees and the Senate then wisely receded from its position. An average wage-piece-rate system for minimum wage payments goes against the entire philosophy of the Fair Labor Standards Act. From its inception, the Fair Labor Standards Act has provided that every employer shall pay to each of his employees a minimum wage. The intent of this provision is to protect each worker with a basic floor under which his wages will not fall. Obviously, the average wage-piece-rate provisions supported by Senator PROUTY do not meet this standard.

Piece-rate workers in agriculture are no different than piece-rate workers in other industries who have in the past been successfully covered by minimum wage legislation. The provisions of this bill in no way prevent or destroy an incentive piece-rate system—which I for one strongly support. This bill merely provides for a minimum wage guarantee below which wages shall not fall. Under this bill the piece-rate system may still be used as an incentive to reward the superior worker with higher wages than those set forth as the statutory minimum.

That the piece-rate standing alone has not provided adequate wages in agriculture is self-evident. The present system of payment for much of the harvest work is the piece-rate. Under this system the average farmworker has an annual income of less than \$1,200 a year. Thirty-four percent of our Nation's farmworkers were paid less than 75 cents an hour in 1965 while 50 percent earned less than \$1 an hour. The average hourly earnings of farmworkers in the United States as of July 1, 1966, was \$1.01 an hour—well below the poverty level.

Under the average wage—piece-rate provisions supported by Senator PROUTY, our Nation's farmworkers would be guaranteed a wage of 75 cents an hour. This would produce farm wages of \$30 a week or \$1,560 a year. That is if the farmworker finds employment for 40 hours a week, 52 weeks a year. Wages such as these are intolerable and can be described as nothing less than a national disgrace.

Even under the modest provisions of the bill agreed to in conference, full-time farmworkers are guaranteed a minimum wage of only \$40 a week in 1967, \$46 a week in 1968, and \$52 a week

in 1969. However, our Nation's farmworkers are only employed on the average for less than 150 days a year. These provisions are nothing for us to be proud of but they are at least a modest start along the road to bringing the farmworker into economic parity with the rest of our Nation's labor force.

While the average wage-piece-rate provisions of the Prouty amendment were deleted by the Senate-House conferees, this bill contains many exemptions from minimum wage coverage. For example, under sections 103 and 203 of H.R. 13712, workers engaged in hand harvest labor and who are paid on a piece-rate basis in an occupation which has been and is customarily recognized as having been paid on a piece-rate basis in the region of employment are exempt from minimum wage coverage if:

First. They commute daily from their permanent residence and

Second. They have been employed in agriculture for less than 13 weeks during the preceding calendar year.

This exemption eliminates from minimum wage coverage most full-time students, casual and part-time workers as well as many of the elderly and infirm. These are workers who, we have been told, cannot for various reasons produce sufficiently to justify the payment of the guaranteed minimum wage set forth in this bill. Most full-time students work less than 13 weeks during the year and, as for the elderly and infirm, it is hard for me to believe that these citizens would work further away than the commuting distance from their homes or more than 13 weeks during the year.

Children under 16 who accompany their parents to the fields are also exempt from minimum wage coverage. The Senate conferees also agreed to allow students to be paid at a rate not less than 85 percent of the minimum wage.

In addition, the Senate-House conferees added to title V, section 14, a provision that workers may be employed in agriculture at wages not lower than 50 percent of the minimum where such workers' earnings or productive capacity have been impaired by age or by physical or mental deficiencies or by injury. This would allow for a subminimum wage payment to those workers who are not included under the other exemptive sections of the bill but who, because of various handicaps, are so limited in their productive capacity that they cannot justify being paid the statutory minimum wage.

For my part, I opposed many of these exemptive provisions feeling that they were without merit. However, the overriding responsibility at this juncture is to act reasonably, in a constructive spirit of compromise, and agree on a bill that can be sent to the Executive for signature. The bill presented by the conference report meets this objective and should not be rejected.

So it seems to me that we have reduced this to the lowest standard of a beginning for agriculture, and this is where we have to stand. As the Senator from Oregon so eloquently expressed it, if we should recommit on this issue, we could tear down the whole house we

have built for 8 million American workers who have not heretofore been covered.

Mr. YARBOROUGH. Mr. President—

The PRESIDING OFFICER. How much time does the Senator from Texas yield himself?

Mr. YARBOROUGH. I yield myself 30 seconds.

I wish to thank also the distinguished Senator from New Jersey, who is a member of the Labor Subcommittee, the full Committee on Labor and Public Welfare, and, as a member of the conference, was there diligently working. We had a very diligent committee on both sides of the aisle; otherwise, we would not have had a quorum every session.

Mr. MORSE. Mr. President, will the Senator from Texas yield me 10 seconds?

Mr. YARBOROUGH. I yield to the Senator from Oregon.

Mr. MORSE. I wish to thank the Senator from New Jersey for his leadership on this bill. As he knows, he and I were on opposite sides on farm amendment after farm amendment, but he was always exceedingly fair and very cooperative in the conference. I also wish to say that he is one of the few men who have ever beaten me on a horse trade.

Mr. YARBOROUGH. Mr. President, the distinguished Senator from New Jersey is chairman of the Subcommittee on Migratory Labor. That subcommittee held extensive hearings; in fact, one of the volumes of hearings here consists of hearings which he held.

Mr. PROUTY. Mr. President, I yield 10 minutes to the distinguished Senator from Florida [Mr. HOLLAND].

Mr. HOLLAND. I thank the Senator from Vermont.

Mr. President, I never fuss with conferees. Having been a conferee so often myself, I know what a difficult task they have.

I wish I could agree with my friends the conferees on this particular measure in their evidently sincere feeling that they have done a good job for agriculture. But I cannot agree with them, and I hope they will pardon me if I state for the RECORD why I feel they have not shown the kindness toward agriculture which I think they should have shown.

My State was especially interested in four provisions in the bill. The first and most important was this piece-rate amendment. I was glad to hear that it was sponsored in a bipartisan fashion by the Senator from Vermont and the Senator from Oregon in the conference. I heard this from both of them, and I am sure it is correct.

The matter was not questioned on the Senate floor. Nobody complained of it. It remained in the bill by the unanimous consent of the Senate. No voice was raised against it. I am sorry that our distinguished friends in the conference felt it was necessary to yield on that particular amendment, to which I shall orient some of my remarks.

The second provision in which we were immensely interested was a provision in the House bill which provided that fieldworkers for sugarcane and sugarbeets should not come within the

provisions of this bill, because they were already included in the provisions of the Sugar Act, and were under the jurisdiction of the Department of Agriculture. It was very important that the Secretary of Agriculture, in doing the very big job that he has to do, in setting allotments, in prescribing how much can be produced and sold, in fixing the prices, and doing all the other things he does, should have the remaining jurisdiction, which Congress gave him many years ago, to fix and set the minimum wage for the field-workers in the sugarcane and sugarbeet industry.

I am afraid that we cannot blame on the House conferees the loss of this particular provision, because it was in the House bill, and I must say, looking at my good friends the Senate conferees, that they must have been the ones who demanded that it be removed from the bill; and I regret very sincerely that they saw fit to do so.

The third matter in which we were much interested was the processing amendment, on which we understand the Senator from Oregon took a leading part. I am glad we got as much out of that amendment—really two amendments—as we did; but I cannot leave the RECORD on the point as indicated up to now. Those amendments did not come back in the conference report in the same form as they were in the Senate bill, because the number of hours beyond which overtime began to run, in the second group of overtime weeks, was reduced in the conference report from the provisions of the Senate bill. I am sorry that the Senate conferees saw fit to yield in that regard.

The only amendment in which we were greatly interested which has come back in the conference report intact, as it was in the Senate bill, is that involving the processing plants for raw sugar production. We are grateful for that favor, which is not a small favor, and I wish to express my appreciation to the Senate conferees for having insisted on retention of that amendment.

But it should be very evident by this time that our gratitude must be somewhat limited, because our Senate conferees have not come back with anything like the degree of recognition of agriculture which we felt it was within their power to bring back.

The first thing I wish to do is reply briefly to the Senator from New York. He said we would have one vote, and that was the only vote, and that we might lose the bill if we refused to approve of the conference report.

I take it that he was not on the floor when the distinguished Senator from Vermont began his statement, because he made it very plain that if the conference report were rejected, he would follow immediately with a motion, and he stated the nature of that motion, requiring a further conference, and instructing our Senate conferees with reference to this piece-rate amendment and one other matter which will appear in his remarks.

So there is little substance to the position of the Senator from New York

along this line; and I hope the Senator will not be unduly apprehensive, but will recognize the fact that if the conference report is rejected, all is not lost.

Mr. JAVITS. Mr. President, will the Senator yield at that point?

Mr. HOLLAND. Not at this point. I am on limited time. I will yield at the end of my time, and be very happy to do so. I hope the Senator will remind me when I come to the end of my time.

The second point to which I wish to reply is a statement made by the distinguished Senator from Texas. He is relying upon the statement of the Department of Agriculture as to the number of farms which are affected by this act.

Insofar as my own State is concerned, that statement could not be more unrealistic, because the small citrus groves and the small vegetable and berry-producing farms are, in greatest measure, supplied and serviced by employees of cooperative organizations. They do not make contracts with the people who pick their citrus fruit, but the cooperative or other agency which handles their fruit has a large organization, and it moves around from grove to grove, and is, of course, covered by this particular act. The fact is that instead of having something more than a thousand farms covered in my State, as shown by the statement of the Secretary of Agriculture, many thousands are covered in the citrus industry alone, wherein we have between 12,000 and 20,000 separate properties, most of them serviced in the way I have indicated, by central organizations, which do employ their picking crews on such a basis as to much more than satisfy the 500-man-day requirement in one quarter that is laid down by this bill.

Mr. President, proceeding to my prepared remarks, I support the motion made by the Senator from Vermont [Mr. PROUTY], to reject the conference report on H.R. 13712.

It has been and continues to be my strong conviction that agriculture is unique among American industries and that extending minimum wage coverage to agricultural farmworkers is a completely new concept, as they have never been covered heretofore under the Fair Labor Standards Act and, in fact, the President himself, who is a pretty canny farmer, in submitting his proposal to Congress, excluded farmworkers from his request. I know he had good reason for doing so, because he knows how greatly farm production is affected by matters out of the control of the producer, such as weather, the perishability of crops, the way they ripen, the competition in the market with other crops, the difficulty in having sufficient migrant labor available because at the time of harvest you have to have so much more labor than is needed during the growing time of the year, and many other differences, which make it completely impossible to compare the job of producing perishable crops out of the land with the matter of producing automobiles in a factory, or any other factory-made goods.

However, the committee saw fit to extend coverage to them in the bill reported to and passed by the Senate on August 26, notwithstanding the fact that the President did not request it.

The Senators will recall that during consideration of the bill I offered an amendment to eliminate agricultural employees from coverage. While my amendment was defeated by a vote of 37 to 51, I am certain that a number of my colleagues would have supported my amendment had not the piece-rate amendment been adopted by the committee and had they not believed the conferees would insist upon retaining the amendment in conference.

Mr. President, as I stated on the floor during the course of the debate on the bill, the inclusion of agricultural workers under the minimum wage law would do certain things.

First, it would force many smaller producers out of business. I am impressed by the facts cited here by the distinguished Senator from Mississippi. He is so right. The smaller producers who do not have the benefit of labor-saving machinery or of service by great cooperatives or others that have a large working force would be forced out of business.

The PRESIDING OFFICER (Mr. LAUSCHE in the chair). The time of the Senator has expired.

Mr. PROUTY. Mr. President, I yield an additional 10 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for an additional 10 minutes.

Mr. HOLLAND. Mr. President, many small producers will be forced out of business if this legislation is passed. They would either have to rely on the less efficient workers or pay wages in competition with the large organizations and large growers, and in either case many of them would be forced out of business.

Thousands of these small growers have been forced out of business every year by heavy competition.

Those Senators who wish to accelerate that rate of forcing small farmers out of business have a good chance to do so by approving the conference report.

Second, the passage of the pending measure would require some producers to shift to less labor-intensive crops at a possible reduction in income to them, and likely it would aggravate the surplus problems of certain other crops.

Passage of the bill would undermine incentive methods of payments which would require growers to pay some workers more than their productivity warrants and to increase their supervision.

It would add greatly to farmers' recordkeeping requirements.

It would increase competition from foreign-produced agricultural commodities.

Mr. President, that is a real problem which exists across the Mexican border and down in the Antilles, and those who do not see it as a problem do not realize what the facts are.

It would reduce employment opportunities, particularly for that portion of the work force most in need and least capable.

In other words, it will be the least efficient members of the work force who will be adversely affected by the passage of this legislation.

All this occurs at a time when our economy is characterized by reduced unemployment and high prices and when the Nation is on a war footing. This action will surely add to the inflationary fire the President is endeavoring, as indicated by his most recent message, to control.

Mr. President, a letter addressed to Congressman ROBERT L. LEGGETT from Secretary of Labor Wirtz, dated March 16, 1966, commenting on the piece rate system which was an alternative wage structure used by the Florida citrus industry last year on an experimental basis is one that I believe well worth the Senate's time to read in part into the RECORD, for it points up the fact that the experiment was most successful and, as a matter of fact, more successful than the Department of Labor anticipated. It also states that industry records show an average wage of \$1.97 an hour in the Florida citrus industry, and that the Department's own audits of citrus payrolls in Florida show a slightly higher figure.

Mr. President, I shall read excerpts from a letter from Secretary of Labor Wirtz to Representative ROBERT L. LEGGETT of California relating to the point which I mentioned.

They read:

You and your California colleagues have expressed an interest in the alternative wage criteria used by the Florida Citrus industry this year on an experimental basis. Although we are still collecting information, I think we can make some tentative conclusions on the basis of our experience to date.

The citrus industry submitted a well documented proposal to us suggesting a guaranteed average wage set at more than 30 percent above the previous established guaranteed minimum wage. The industry felt that such an arrangement would cause greater production, would be more equitable for all concerned and that the higher guaranteed average would induce more Americans to work in the crop than the previous guaranteed minimum.

The experiment has generally proved successful, more so than we had anticipated. Industry records show an average wage of \$1.97 an hour; our own audits of citrus payrolls show a slightly higher figure. The indications are that less than 10 percent of the workers at any one time made less than the old minimum of \$1.15 an hour. With the exception of one grower's payment of an additional \$47 to his crew in one pay period, there has been no need for make-up pay.

One of the most heartening aspects of this experiment was its success in attracting domestic farm workers; more of them than ever before moved into the citrus groves.

In summary the Florida experiment included these elements: a guaranteed average, set at a figure about 30 percent higher than the previously established minimum; substantially higher piece rates; and vigorous interstate recruiting. To date we think it has been very successful.

Mr. President, in spite of the voluntary program initiated in Florida which has shown such success and under which,

incidentally, it was shown that approximately 10 percent of the workers who could not make up to the minimum wage would be the ones who would be cut off by the passage of the pending bill, and in spite of that fact that the great success of this experiment has been shown very clearly, the conferees apparently have decided that this is something that is not worth having in the bill, that it is not worthwhile any longer to increase the incentive to try to get people to work hard so that they could make more money, than they would otherwise be able to make, which is essentially what has been done under the program worked out so successfully by the citrus industry of Florida last year.

Mr. President, I believe this letter very strongly indicates that the coverage of agricultural employees—employees in an industry of high seasonal labor requirements not susceptible to the type of work regulations that control assembly line production in industry—will not benefit from coverage under the legislation. They would benefit if the piece-rate provision were included in the legislation.

For my stated reasons I hope that the Senate will reject the conference report, appoint new conferees, request a new conference with the House and instruct the conferees to retain the piece-rate provision of the bill.

Mr. President, I thank the distinguished Senator from Vermont for yielding to me.

Mr. PROUTY. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 1 minute.

Mr. PROUTY. Mr. President, I am very grateful to the distinguished Senator from Florida for his very able statement in support of his position and mine.

I was particularly pleased to hear the letter from the Secretary of Labor. That was most helpful.

Mr. President, I yield 10 minutes to the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 10 minutes.

Mr. FANNIN. Mr. President, I commend the distinguished junior Senator from Vermont and express my unqualified support for his pending motion.

I pay tribute to the senior Senator from Florida for his statement in support of the pending motion and for the succinctness with which he described the position that the people from the agricultural community are in.

It was gratifying to see the senior Senator from Oregon so adamantly holding out for the Senate provisions. I commend him for that in the conference committee.

I was very proud that the senior Senator from New York also was steadfast in his determination to retain the Senate provisions.

The Senator from Vermont and the Senator from Florida have thoroughly outlined the necessity for sending the bill back to conference.

I want to underscore one of the points which he made. This is not a question of voting down a conference report to de-

feat the amendments to the Fair Labor Standards Act. It is simply a procedure to instruct the Senate conferees to insist on the piece-rate work provision for agriculture which the Senate Committees on Labor and Public Welfare approved by a vote of 10 to 6 and which was not challenged on the Senate floor during our consideration of the minimum wage bill.

Mr. President, one of the most active participants in the Senate committee sessions was the Senator from California. His State is the largest producer of agricultural commodities in the United States. He has perhaps been one of the most untiring persons in endeavoring to bring about fair and equitable wage payments for employees in the State of California and throughout the United States. I commend him for this.

The Senator from California strongly supports the pending motion, because he knows firsthand great hardships that will result if this conference report is accepted. His approach is not one of opposition to benefits for the workers. He is concerned for those workers who are not in a position to earn the minimum wage established under this bill, perhaps because of some particular handicap that they may have.

The Senator from California made recommendations to us all, and I want to thank him for his activity.

Mr. President, piece rate methods of compensation have been used extensively and traditionally in large segments of American agriculture. They are used in the harvesting of citrus, lettuce, melons, and onions, for example, in Arizona. The reason for the widespread employment of the piece rate system in agriculture is well understood by Senators familiar with agriculture. My distinguished colleague from Vermont has explained its importance extremely well.

Basically, this method of wage payment exists because of the seasonality of the farm work force. The number of workers required by any individual farmer varies widely depending on his season. Because of the sharp upsurge in demand for labor at harvest, farmers have traditionally hired virtually every available worker.

These workers bring to the job different qualifications. Many are diligent and highly motivated. Others, for whatever reason, cannot produce an amount necessary to justify a flat minimum wage of a dollar or more per hour. It is for this reason that farmers pay on a piece rate. It is fair as between workers and enables the farmer to reward incentive.

Now, Mr. President, piece rates are utilized primarily in those crops with intensive labor requirements—primarily, fruits and vegetables. Much has been said about the vast increase in productivity of American agriculture. But these productivity gains have taken place in those crops which are mechanized to a large extent and which use other labor-saving devices. Such crops as cotton, wheat, and other grains are examples. On the other hand, crops such as citrus, strawberries, asparagus, and most deciduous fruits have shown relatively small productivity gains, and it is these which

require large amounts of hand labor. It is these which require the piece rate method averaging of compensation. If we fail to provide it, we will be in the paradoxical position of applying a minimum wage to those areas of agriculture where productivity increases are the smallest.

Let us keep constantly in mind that the farmer's opportunity for supervision and work regulation is very limited.

There is no assembly line in agriculture to control the speed and volume of work of individual employees. It is through the piece rate wage system that farmers are able to exercise some control over the productivity of their work force.

I would also question whether the establishment of a flat agricultural minimum would not be a long step in destroying the many perquisites provided by farmers to large numbers of their employees. Unless these perquisites are properly evaluated and counted toward minimum wage coverage, they may not be provided. The reason is that farm-
their labor costs are related directly to
ers can afford to provide them where
productivity. If labor costs rise and, in
many cases, exceed productivity, those
farmers requiring large amounts of
hand labor will have to do all possible
to reduce other costs. The elimination
of perquisites might be one way to cut
back on total costs.

Mr. Fred Burrows, executive vice president of the International Apple Association, in his statement before the Labor Subcommittee last year, said:

In our industry harvest labor is nearly always paid on an incentive piece rate basis. The rate this past season ranged from 15 to 35 cents per loose bushel field crate, and for the industry averaged in excess of a conservatively estimated 20 cents per bushel. (In 1964 the apple industry's harvest labor bill alone exceeded \$26 million.)

Our industry records are replete with data showing that qualified, willing workers readily earn in excess of \$1.75 to \$2 per hour on a piecework basis. Therefore, payment of the present minimum wage to these sincere and able workers might not present a problem.

However, and unfortunately, the supply of qualified harvest labor is far below our industry's needs. By necessity the entire horticultural industry, to get the crops harvested, must employ many people considered by many as unemployable—the unskilled, the young, the aged, the lazy, and so forth—who are either not capable or are unwilling to work hard enough to earn even the present minimum wage on a fair and equitable piece rate basis.

To be forced to pay a guaranteed minimum wage to these workers would only result in their not being employed at all, thus further swelling our welfare and delinquency rolls. In many instances, the grower would be forced out of business. Hence the carton manufacturer, the transportation agency, the chemical firm, the retailer and so forth, would all necessarily retrench seriously and adversely affecting our overall economy. Conceivably, prices to consumers could increase materially.

Further, experience has taught us that a guaranteed minimum wage for harvest and packing labor simply does not work. A guaranteed wage usually results in the borderline, or semiefficient worker slowing down and the inefficient becoming even more inefficient. Considering our shortage of qualified and willing harvest labor, the effect of a minimum wage for agricultural labor—

especially harvest labor—on the growers' existence and on consumer prices is readily apparent.

Finally Mr. Lester Heringer, president, California-Arizona Farm Labor Association told the subcommittee at its recent hearing in California:

Experience has shown us that the establishment of minimums or floors under piece rates serve to destroy the incentive and to reduce the productivity, therefore, we have a basic distaste for arbitrary minimums. To substantiate this contention we would refer you to statistical data available in the California Disability Insurance Reports on Farm Labor. A comprehensive analysis of this report indicates that a minimum wage under the piece rate incentive method of payment does little or nothing to enhance the earnings of the qualified agricultural worker, but it does render uneconomical the continued employment of the nonproductive, less than qualified, casual farmworkers upon whom agriculture must depend to augment its regular work force.

Mr. President, I urge the Senate to accept the motion of the Senator from Vermont and restore the agricultural piece-rate system which is so important to both workers and farmers.

Mr. MORSE. Mr. President, will the Senator from Texas yield?

Mr. YARBOROUGH. I yield.

Mr. MORSE. I want to clarify the parliamentary situation that confronts us.

The Senate, irrespective of what the Senator from Vermont would have us do when we got back to conference, cannot bind the House conferees. If we take this report back to conference, we take the whole report back to conference.

Senators should not forget that except for the Prouty amendment, all the farm amendments were adopted in what I called a series of packages. They put these farm amendments in a package, and then we would compromise in regard to those amendments. Even with respect to the Prouty amendment, it was replaced with language that excluded most of the low-production workers that would be most affected by averaging.

We came out, in my judgment, much better than we had any hope of coming out when we went in on the farm amendments. In my judgment if the Prouty amendment is taken back to conference some of the major farm amendments will be lost and we will come out with a much weaker farm bill from the standpoint of the farm amendments than we have now.

Mr. President, I wish to stress this point. I have already talked to farm leaders in my State. Earlier this afternoon I quoted them in a speech that I made. When they saw what was involved in these compromises their instructions to me were to stand where we are.

Mr. President, I have one last point that I wish to make. Some Senators were not here when I discussed the Prouty amendment. I was for the Prouty amendment in committee, and that was for averaging of piece rate earnings. Then, there was introduced by the Senator from New York [Mr. JAVITS]—he has discussed it—the proposal that the employer would still have to pay each pieceworker at least 75 per-

cent of the minimum. I voted against it in committee. I thought it was a mistake, and greatly watered down the Prouty amendment. The Prouty amendment is further watered down by the Green amendment, which I strongly supported, which exempts these young people working on farms within commuting distance of home. It was watered down further to exempt the children of migrant workers. We watered it down much further in the conference report because the Secretary of Labor is given authority in regard to the handicapped, mentally deficient, aged, and full-time students, to have them exempted from coverage altogether. I do not believe there is much left in the Prouty amendment with those exemptions.

The Senator from Vermont [Mr. PROUTY] is not bound, as are the Senator from New York [Mr. JAVITS], the Senator from Texas [Mr. YARBOROUGH], the Senator from West Virginia [Mr. RANDOLPH], and the Senator from Oregon by commitments that we made in conference. He made it clear that he was not going to be bound, but we are and we did the best trading that we could.

In my judgment, I can tell the Senate what the House conferees will do. They will say, "We are not going to accept any restrictions." If we go back to conference, every farm amendment in the report will be in jeopardy. As conferees on the part of the Senate in connection with handling the farm amendments, we will be in an impossible position.

One of the leaders of the House conferees proposed at the end of the conference to reopen one of the farm amendments. That was my amendment on food processing. I told you what the farm people think of it. They think it is the most important amendment. I speak only for what they said in my State.

I told the conferees, "You can reconsider when you want; when you consider package agreements we should recognize we have entered into a gentlemen's understanding and we are bound to agree to or reopen the whole package." That is when I made the comment, and we laughed, that when I make a horse trade and I get a spavined horse, I keep him. I do not say, "Take him back."

Mr. President, I think we made a good trade on the farm amendments. I think that the conferees deserve to have this conference report accepted.

I wish to say to those who are interested in the farm amendments that if you want the best protection for the farms of the country you will accept the conference report and not run the risk of losing the amendments that we obtained in conference.

Mr. JAVITS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. MORSE. I yield.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. KENNEDY of New York in the chair). The Senator will state it.

Mr. JAVITS. Mr. President, if the conference report is rejected and the conferees are instructed by the Senate, are the conferees bound by those in-

structions so that if they bring back some other report it would be subject to a point of order?

The PRESIDING OFFICER. It would not be subject to a point of order.

Mr. JAVITS. I thank the Chair.

Mr. PROUTY. Mr. President, I yield 3 minutes to the Senator from Colorado [Mr. DOMINICK].

Mr. DOMINICK. Mr. President, I shall not take long, but I wish to bring out several points.

It will be remembered that last year we had a series of discussions in the Senate concerning the need for additional import of labor. There was substantial criticism of the Secretary of Labor for mishandling this type program. We had a vote, I believe, on this matter, which I believe was introduced by the Senator from Florida [Mr. HOLLAND]. There was a vote as to whether we were going to take this program from the hands of the Secretary of Labor and put it into the hands of the Secretary of Agriculture. We lost it. It was our motion. I supported that, and I am happy that I did.

What have we done this time? We took the sugarbeet workers, whose wages have been under the Secretary of Agriculture since the institution of the Sugar Act, and put them into the hands of the Secretary of Labor, who mishandled the entire program from the beginning. I cannot understand why the conference did that.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. HOLLAND. Under existing law, is it not fact that the Secretary of Agriculture is charged with a large number of duties relative to sugarcane and sugarbeet production, and has fixation of wages for fieldworkers?

Mr. DOMINICK. The Senator is correct.

Mr. HOLLAND. He has to fix the allotments of the amounts that can be picked, and the prices that can be charged. He has to determine every feature of a complex program set up by law and under which he has been functioning successfully. At least in my State the wage he has proposed and required for fieldworkers is above the average wage as stated in the bill.

I see no justification for spoiling the broth by putting two cooks into that kitchen.

Mr. DOMINICK. The Senator is correct, and I appreciate his thought in that connection. That is one problem of the conference report.

Another matter that I wish to point out is in connection with the 37 million people affected by the bill and the 8 million people coming in, which was mentioned by the Senator from West Virginia [Mr. RANDOLPH].

I believe that the Senator will admit, along with the rest of us, that most of these people are already getting wages higher under the law—most of them are getting higher wages under the bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PROUTY. Mr. President, I yield 2 minutes to the Senator from Colorado.

Mr. DOMINICK. They will not be affected. This is not a matter of life and death, or a matter of taking a worker out of peonage. We are trying to get rules and regulations that are fair to all people. I do not believe that the conference report does it.

The third thing that I wish to point out is that we have a limitation in this bill on the amount of business that must be conducted in gross sales before a business is subject to the act. What institutions are not within that limitation? The first are hospitals. A hospital does not have to do \$250,000 to be subject. If a hospital has two patients, they are subject to the act. We are subjecting them to a level below what the level for a small business would be. When there is a charitable organization of this kind trying to help people, we should not have that kind of situation. I brought this situation up in the Senate hearing. We brought it up in the committee hearings and we got nowhere. We do not have any situation, except on overtime, to help them. We do help them on overtime.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. DOMINICK. The Senator will have to acquire time elsewhere. I have 1 minute left.

Mr. President, the other matter which I wish to comment on is that I want to assure the Senator from Oregon that I have implicit confidence in his ability and the ability of our other conferees backed by Senate vote to bring back from a conference a better conference report than we have here.

I thank the Senator.

Mr. YARBOROUGH. Mr. President, I ask for the yeas and nays on the conference report.

The yeas and nays were ordered.

Mr. RANDOLPH. Mr. President, will the Senator yield me 1 minute?

Mr. YARBOROUGH. I yield 1 minute to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I request the attention of the Senator from Colorado [Mr. DOMINICK], the very able legislator who made reference to remarks I made earlier this afternoon as to the coverage of those more than 8 million persons who will be brought under the Fair Labor Standards Act for the first time. I must not permit this discussion to fail to underscore what I believe to be a very important advance in new coverage and improvements in the law for almost 38 million workers.

The Senator will remember that I joined with him in the matter of the hospital amendment which was defeated in committee. We were often in agreement.

But, Mr. President, I have tried to think in terms of equitable adjustments and exemptions, and I stand here today and assert that within the conference we cannot have both those provisions which were in the Senate bill, and those in the House bill. There must be an accommodation to the conferees from both bodies. Your Senate conferees were diligent but we were not so unyielding as to stymie a measure so important in its overall provisions as to strengthen the overall economy of our Republic.

Mr. PROUTY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 5 minutes.

Mr. PROUTY. Mr. President, thus far, nothing has been said about the exemption for small business enterprises which I intend to propose in the event the conference report is rejected. Two amendments on this question were introduced when the bill was being considered in the Senate. The first was to maintain the exemption at the level of \$500,000. This lost in a tie vote. The second amendment which I offered reduced the figure to \$350,000 in 1969. This carried by a vote of 41 to 38. Significantly, 8 Senators who did not vote were positioned in favor of the amendment, making a total of 49 Senators on record as favoring the exemption for small businesses on their gross sales of less than \$350,000 annually.

At present, businesses with sales of less than \$1 million are exempt. Under both the House and Senate bills, the figure is reduced to \$500,000 in 1967. Under the House bill and as agreed to by the conference, it is proposed to lower it still further, to \$250,000 in 1969. Under the Senate bill, it would be lowered to \$350,000 in 1969, and that is the provision I desire to retain. The next step, of course, will be to eliminate it entirely. In sum, Mr. President, a firm with sales of \$349,000 a year appears to be doing a substantial volume of business. Some people seem to feel that that is the case.

I have just been handed a publication called Dun's Review of Modern Industry, which lists 25 or 26 various lines of businesses, and shows the median ratio of profit to net sales on profits. As I glance at it, the lowest—and I am talking now in terms of the median ratio—is 1.09. That means that a business doing \$349,000 in annual sales would show a profit of \$3,807. The highest median ratio was 2.34 percent and that would show a profit of \$8,190.

Thus, we are not talking about big business. We are talking about very small business, which is faced with all sorts of problems and handicaps at the present time.

It seems to me that there is a tendency on the part of too many people to try to put small business out of business, or to turn it completely over to the large monopolistic concerns. It may come to that. Once a few, big concerns control and dominate business in this country, then we will have a monopoly, unless the Federal Government takes business over—and that is certainly something we do not want.

Small business has grown into large business—that is, men with initiative and courage, willing to run risks, have made a profit for themselves, yes; but they have put an awful lot of people to work. Many of the people employed in small business today are young people without any training, without any skills, and could not get a job if the wage level were increased beyond their productive capacity. Many elderly, retired people are able to supplement their meager incomes, even though they are not physically, perhaps, able to

do a full day's work. We will be putting a lot of people who can earn something out of work, unless we take care of these small business problems.

Therefore, I plead with Members of the Senate to reject the conference report. It will go back to conference. I shall make the motion, if no one else does. I will suggest that instructions be given to the conferees to insist on provisions in the Senate-passed bill, provisions which the Senate passed and wants and, in my judgment, should insist remain in the bill.

Mr. President, the House conferees are not tougher than the Senate conferees. I am sure that we can stand up and insist on what we think should be contained in the bill.

We were in a hurry to get this conference completed before the Labor Day recess. Everyone was tired and wanted to get away. Had we had more time, perhaps the Senate would have been able to maintain some of the things in the bill which I think should have remained.

I am sure that if we go back to conference again, we will get what we want.

The PRESIDING OFFICER. The time of the Senator from Vermont has expired.

Mr. PROUTY. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 2 additional minutes.

Mr. PROUTY. The idea that rejection of the conference report will mean the end of the minimum wage bill, in my judgment, is just not accurate. I have zealously supported minimum wage bills ever since I have been a Member of Congress. I have supported several amendments which perhaps, in retrospect, I should not have; but, basically, I am in favor of what is in this bill. I am sure that when we return to conference, we will come back with a better bill which will be acceptable to both the House and Senate.

Mr. DIRKSEN. Mr. President, will the Senator from Vermont yield to me?

Mr. PROUTY. Mr. President, I yield 5 minutes to the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN].

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. DIRKSEN. Mr. President, when the instant bill was before the Senate some time ago, I authored a proposal to make \$500,000 the enterprise cutoff, so that businesses doing an annual gross sales of less than \$500,000 would be exempt from the provisions of the bill.

When I did so, there was in my mind an earlier experience when I was still a member of the Committee on Labor and Public Welfare. On that occasion, we handled the first minimum wage bill, and I recall the then distinguished Secretary of Labor, Arthur Goldberg, who came before the committee to testify. In the course of the colloquy, I said to him, "I cannot understand how you can hang a dollar sign on the interstate commerce clause of the Constitution and make it stand up logically because, if that is the case, then why not lower the 'ante' and

make it not \$750,000 but let us make it \$100,000?"

The very distinguished former Representative from Wisconsin, Mr. Andrew Biemiller, who attends the Honorable George Meany of the AFL-CIO on occasion, when he appears before committees, said, "Well, that is what we try to get the House to do, to make it \$100,000 in the first instance."

I said, "Andy, why don't you make it \$50,000?"

He said, "If I had it to do, we would do so."

The distinguished chairman of the Committee on Labor and Public Welfare sitting here remembers it so well, because he was there. Of course, that is what they would do, but then we can also make it zero. As a consequence, every business, large and small, will come within the purview of the commerce clause and will become fair game for that elaborate and sprawling bureaucracy which knows so well, in its expert way, how to command reports and put burdens upon little business.

Mr. President, I dread the thought, because I remember at the end of a college year a long, long time ago, I realized that I had to do something to earn some money during the summer; so I rented a little building and went into the ice cream business. I made enough money to pay my matriculation fees and buy books for the next session of college; otherwise, I would not have been able to go back. But I thought, what a burden it would be if I had to sit down and burn the midnight oil beyond the time when I was pushing hamburgers and selling iced drinks, in order to get a stake and purchase some books. But that is exactly what is happening today to little business. Pretty soon, they will be fairly crying for survival.

The other day, someone sent me a copy of Oliver Goldsmith's "Deserted Village." I drenched myself in that wonderful literature with much satisfaction, as I reread what once had been assigned to me in school a long, long time ago. I am sure we all remember the couplet:

Princes and lords may flourish, or may fade;
A breath can make them, as a breath has made;

But a bold peasantry, their country's pride,
When once destroy'd, can never be supplied.

Mr. President, we do not use the word "peasantry" in our country.

We think in terms of the small enterpriser. He is the counterpart of what they might refer to as the peasantry in England. So the bold little enterpriser, our country's pride, when once destroyed can never be supplied.

And who is going to destroy him? His own Government, by the burdens the Government imposes by making him stay up at night to render reports, and by making him listen to an inspector who comes in and says, "Look, my friend; you are in violation of the law. The law says that if your gross is \$250,000, you must comply with all of its provisions."

I do not know how many items are in the bill that went before the conference. I see now that the conferees had to deal with 32 different items. Think of that.

When we discussed this measure before, I showed the Senate the regulations. They extended all the way across the Chamber. They comprised hundreds and hundreds of pages. It would baffle a Philadelphia lawyer to understand what is in the bill and what must be complied with.

So now the burden is going to come down further and further. If a man's gross income is \$250,000, he will be "in." He will have to comply. If he cannot comply, do Senators know what will happen? The Government will move in on him. He will be given his choice of paying double damages or of complying with the law.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. DIRKSEN. Surely; I yield to my good friend from the State of Brotherly Love. He must share our views and our compassion.

Mr. CLARK. The Senator was kind and generous enough a moment ago to refer to a Philadelphia lawyer.

Mr. DIRKSEN. A Philadelphia lawyer?

Mr. CLARK. I heard the Senator say "a Philadelphia lawyer."

Mr. DIRKSEN. Oh, I was thinking of all lawyers.

Mr. CLARK. I think the RECORD will show that the Senator from Illinois made special reference to the ability of a Philadelphia lawyer. I merely want the RECORD to show that there are two Philadelphia lawyers in this body, one a Republican and one a Democrat, who do not share the view of the Senator from Illinois with respect to the bill.

Mr. DIRKSEN. That reminds me—

Mr. CLARK. I thank the Senator from Illinois for yielding.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. DIRKSEN. Oh, Mr. President, not yet; we have lots of time.

Where is my friend from Pennsylvania? What was it somebody once said? Pennsylvania rates two great men: William Penn and Albert Gallatin. The only trouble was that Albert Gallatin, a Secretary of the Treasury, was born in Switzerland.

Mr. CLARK. I regret that my friend has eliminated Benjamin Franklin from his list.

Mr. DIRKSEN. Yes, but he was not a lawyer. He was like a trombone out of place.

The fact is that more and more of this burden is coming down upon the little fellow. Just give the world crusaders a chance, and they will have all the little fellows under the Federal statute, under the regulations they are issuing. Then what will happen? The little fellows will have to do business with mistrust and misgivings, and it is not worth the doing.

I recall when I was operating a small bakery. The Department of Commerce had pleaded and begged and sandbagged me for reports, reports, and reports. It would have taken days to sit down and determine how many pounds of lard, how many pounds of yeast, how many barrels of flour, and how many barrels of salt

were used in the course of a year. I did not keep books in that way; I did not try to keep an encyclopedia of business. I threw the report forms in the waste basket.

Then one fine day a high school classmate came in. I said, "Robert, what are you doing here? I haven't seen you for years."

He said, "Why, I am working for the Federal Government."

I said, "The devil you are. Goody for you that you got a job. Is it a civil service job?"

"Yes," he said. "I qualified. I am a GS-9"—or 10, or whatever it was.

I said, "What brought you here?"

He said, "You know, you haven't sent in that report to the Department of Commerce."

I said, "I not only have not but I am not going to." He said, "You have got to. Did you look at the bottom of the form?" I said, "What's on the bottom?" He said, "In dark type it says they can fine you \$10,000 and put you in jail." I said, "I don't want to go to jail. I never saw a jail that was healthy. The furniture and food are not good—although I have not been in jail."

So he went away. He came back again. He said, "For the sake of friendship, don't do this. Don't force me." I said, "I am not forcing you. You are an agent of his majesty's government, the U.S. Government. How could I force you?" He said, "You make out that form. My job may be in jeopardy." I said, "The Illinois River is two blocks away from this bakery. You go jump in that river. I am not going to finish that report."

I never did finish it.

But think of the number of people who have kowtowed in doing that very thing. Since then these reports have grown in number until they are an absolute burden on little businesses.

Senators rallied to the cause when we took off the excise taxes. Why? Not because of the money involved, but because of the paperwork burden. That is the paperwork curtain. You have all heard of the Bamboo Curtain and the Iron Curtain. Now there is the paperwork curtain. The only place we find it is in the United States of America, imposed by the Government itself.

So, if we go down this course, what happens to the "bold peasantry, their country's pride, when once destroyed, can never be supplied"? We see how the big retail businesses have swallowed up the little fellows. They do not come back. Put this burden of paperwork on them, and they will go out of business by the hundreds. If we do not help him, the little businessman will go down in a short time.

Let us reject the conference report and let us go back and restore the \$350,000 provision the Senator from Vermont offered. It is the least we can do for the "little guy." We go wringing our hands, we cry crocodile tears, for the little farmer and the little businessman, but when it comes time to lay it on the line, we do not do it. If they are not going to save him on that side of the aisle, let us give him a break on this side of the aisle and step up for him. Let us not

adopt the conference report. Then it is open to amendment, and we can take up the small enterprise amendment and do a job with it.

That is the whole story, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. YARBOROUGH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. YARBOROUGH. How much time is left on each side?

The PRESIDING OFFICER. The Senator from Illinois and the Senator from Vermont have 15 minutes remaining, and the Senator from Texas has 6 minutes remaining.

Mr. YARBOROUGH. Mr. President, I yield myself 2 minutes.

It has been pointed out by the Parliamentarian on inquiry—although many Senators were not present when these inquiries were made—that if the conference report goes back to conference, it goes back with everything. It cannot be limited to only one or two items under the rules of both the House and the Senate.

To return the bill would put the farm labor amendments and the whole bill in jeopardy for a total of 37,800,000 workers, 8,200,000 with no coverage at the present time.

Mr. JAVITS. Mr. President, will the Senator yield, to make it very clear that no matter what instructions we give the conferees, we cannot bind either the conferees or the conference?

Mr. YARBOROUGH. That is exactly right. It has been so stated, upon inquiry, by the Parliamentarian. If we send this back to conference, it does not make any difference what instructions we give the conferees, the matter will be wide open.

The conference report covers 38 points. The Senate prevailed in 21 points, the House in 17.

I wish to point out that we are bringing under this bill for the first time 8,100,000 workers—360,000 farmworkers, but also 7,700,000 who work mainly in laundries, motels, hotels, hospitals, restaurants—the service trades—who have never had the protection of a minimum wage law, and have therefore never had the protection of the Fair Labor Standards Act.

They are the disadvantaged workers of America. They are the poor of America. All the poverty surveys show that the two greatest groups among the poor are the aged people of America and the widows, the heads of families with children, where there is no man in the family, and who work in those laundries, motels, hotels, restaurants, and hospitals—in the service trades.

Those women, who are the heads of families themselves, are having to support children at home. This bill provides that we start with a modest \$1 an hour next year, the following year, \$1.15, and on up—it takes 5 years to get up to the \$1.60 an hour minimum.

As to the small business test, a small business test of \$250,000 is provided in the bill. If a business grosses less than \$250,000 a year, it is exempt.

How much is \$250,000 a year? If you

have a motel with 50 rooms, and rent those rooms at \$13 a night, and rent every single room every night—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. YARBOROUGH. I yield myself 30 additional seconds.

Every night, for 365 days a year, you still would not have a total gross income of \$250,000.

So the little businesses are exempt. Every corner grocery store is exempt. Every so-called family business is exempt—every "mom and pop" establishment, operated by the family with the assistance of the grandparents, is exempt, even if it takes in a million dollars a year.

And, Mr. President, that total extension of coverage will not be effective until 1969. It is just a reduction to a \$500,000 gross business test next year. We are talking about 2 years off.

Mr. President, I submit that the conference report should be accepted, and that this effort to destroy it should be rejected. I move that the conference report be agreed to.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DIRKSEN. Mr. President, is the Senator from Texas ready to yield back the remainder of his time? I shall yield myself 2 minutes, and then I shall be ready to yield back the remainder of my time—or did the Senator from Ohio wish time?

Mr. LAUSCHE. Mr. President, I should like to ask the Senator from Vermont, how many Senators were members of the conference committee?

Mr. PROUTY. There were 11.

Mr. LAUSCHE. How many of those 11, when the vote was cast on the \$350,000 figure, voted for it, and how many against it?

Mr. PROUTY. I do not think we voted on it separately. On the farm question, the vote in the Committee on Labor and Public Welfare was 10 to 6 in favor of my position. In the conference, it was 8 to 3 for the Senate to recede.

Mr. LAUSCHE. Perhaps my question cannot be answered by the Senator from Vermont; but the Senator from Illinois offered an amendment that the figure of \$500,000 be retained. That was voted down. The Senator from Vermont then offered the \$350,000 amendment.

Mr. PROUTY. That is correct.

Mr. LAUSCHE. My question is, How many of the Senate conferees voted for the amendment of the Senator from Vermont? My recollection is that eight of them voted against it and three voted for it.

Mr. PROUTY. I do not recall, but the Senator is probably correct. The record vote in the Senate is on page 19924 of the RECORD of August 26. I do recall that on that vote, 41 Senators voted in support of my amendment. Eight Senators were listed in the RECORD as in favor of my amendment, though they were either paired or absent. In other words, a total of 49 Senators are in the RECORD in support of the amendment I offered in the Senate.

Mr. LAUSCHE. I think an examination of the RECORD will show what the leaning of the members of the conference committee was. That is, were they

against the Senator's amendment, in the main, when it came up for consideration, or were they for it? If they were against it here, of course, they were against it in the conference.

Mr. PROUTY. I have not checked the RECORD, but my best recollection is that they were against it.

Mr. MORSE. Mr. President, will the Senator from Illinois yield 30 seconds to me?

Mr. DIRKSEN. I yield 30 seconds to the Senator from Oregon.

Mr. MORSE. I say to the Senator from Ohio, we cannot give the record on how the conferees voted on the \$350,000 Prouty amendment in conference, because we did not vote on it singly. It was a part of a package. We discussed that package, worked out compromises on the package, and voted on the package. We voted to give way on this matter in conference, in order to retain something we considered more important.

Mr. LAUSCHE. I understand that, but the pertinent part of my question is, what was the leaning of the members of the conference committee when they were appointed? Were they of a complexion that they were, at the time of appointment, against the Prouty amendment?

Mr. MORSE. It does not make any difference what our leanings were. But I wish to boast about the conferees, for every one of us, no matter how we voted in the Senate, fought for the Senate amendments, up to the point where we knew we could not prevail. It was only then that we started to compromise.

Mr. RANDOLPH. Mr. President, will the Senator from Illinois yield me 30 seconds?

Mr. DIRKSEN. I yield 30 seconds to the Senator from West Virginia.

Mr. RANDOLPH. I thank my cherished colleague.

For the record I shall say that the conferees on the part of the Senate, in connection with this important legislation, were all members of the Subcommittee on Labor, both Democrat and Republican. This assured all viewpoints, personal and in response to earlier Senate action.

Mr. DIRKSEN. Now, Mr. President, I yield myself 2 minutes. Then I will yield back the remainder of my time, and we will vote.

My friend, the Senator from Texas, talks about destroying this conference report. He knows full well that many a conference report has gone back, and the fighting never gets good, in a conference with the House, until you have gone back and belabored them. I have been on hundreds of conferences, both on the part of the House and on the part of the Senate, in my years, and I know precisely what happens. The Senator from Texas says you open up this whole business. You do not do anything of the kind. They can read the CONGRESSIONAL RECORD over there. They know how we feel, and that here are the two items in which we are interested.

But we will have no chance at it unless we open up this conference report. That does not involve any destruction what-

soever, nor does it involve a stretchout of time. It can be done in reasonably short order; and if we wish to make a little effort in behalf of small business in this country, this is the time to do it, or forever hold our peace.

Every retail association in the country, and all the independent small business people, have been in favor of maintaining a larger base for small enterprise.

Now, you have your choice. But you are not going to get anything from them unless you first vote this conference report down; and I urge that that be done.

Mr. RANDOLPH. Mr. President, will the Senator yield me another 30 seconds?

Mr. DIRKSEN. Thirty seconds.

Mr. RANDOLPH. I have tremendous admiration for the Senator from Illinois. We came to the House of Representatives in the same year. We began our service in the 73d Congress. I hope it is not inappropriate to recall that on June 14, 1938, when we voted in the House of Representatives on agreeing to the conference report on the Fair Labor Standards Act, the Senator, then a Representative from Illinois, voted for that conference report, which brought the Fair Labor Standards Act into being.

The PRESIDING OFFICER. The Senator's 30 seconds have expired.

Mr. DIRKSEN. I yield the Senator 30 additional seconds.

Mr. RANDOLPH. I only wish—and I say this in good conscience and good humor—that this afternoon, the Senator from Illinois could appear in the same role as he appeared in 1938, when he voted for the conference report, as did the Senator now speaking. In that effort we were to begin to increase very low wages and to shorten the too long hours of toil and in part remove the unsanitary and intolerable working condition for men, women, and children. We have moved the economy of this Nation forward. Let us not slow down or sidetrack the good already won.

But, although I take issue with my friend, I respect his conviction.

Mr. DIRKSEN. Mr. President, I yield myself 30 seconds.

The VICE PRESIDENT. The Senator from Illinois is recognized.

Mr. DIRKSEN. Mr. President, I have not changed my mind about the minimum wage and maximum hours. It is this Government and the bureaucrats and the labor organizations who have intruded themselves and contributed all of these refinements. That is a different dish from the day when we voted in the House of Representatives 28 years ago on minimum wage and maximum hours.

Mr. President, I yield 30 seconds to the Senator from Vermont.

Mr. PROUTY. Mr. President, I wish to make it clear that, if the conference report is rejected, I shall move to request a conference with the House on the disagreeing votes of the two Houses. I shall move to instruct the Senate conferees on two specific issues which will be voted on separately.

I do not wish to ask the Senate to vote against the small businessmen and the small farmers at the same time. I

want to give them a chance to vote separately on those matters.

We will then go back to the conference, if the motions are agreed to, with instructions, and I am sure that we will return to the Senate with a much better bill.

Mr. DIRKSEN. Mr. President, I yield back the remainder of my time.

Mr. YARBOROUGH. Mr. President, I yield myself 1 minute.

Mr. DIRKSEN. Mr. President, I save my time.

Mr. YARBOROUGH. Mr. President, the able Senator from Oregon has very ably pointed out that this was a package arrangement in the horse trading that went on. It was a very hard-fought-for measure.

I want to point out one thing that has not been pointed out on the floor as to why we were disadvantaged concerning the minimum wage rate, from the start.

When we met with the House conferees, the House conferees were militant against the \$350,000 amendment. They pointed out that the language contained in the \$350,000 amendment would remove from the coverage of the act 30,000 service station employees and leave these employees without protection.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. YARBOROUGH. Mr. President, I yield myself 1 additional minute.

The VICE PRESIDENT. The Senator from Texas is recognized for 1 additional minute.

Mr. YARBOROUGH. Mr. President, these employees have heretofore been protected. We would not only be postponing the date of coverage of the newly covered employees by agreement to this amendment, but we would be actually eliminating the coverage that the other workers already had.

We were not going to agree to such an amendment. I hope that we are not ordered to go back to conference and eliminate from the coverage of the minimum wage law the workers already covered.

I hope that the Senate will not order us to go back to conference and remove 30,000 workers who have been covered by the act for many years.

The conference report cannot be accepted or rejected piecemeal. If the conference report is rejected, it is all in conference, and every agreement that we have made is down the drain and the hourly rates of 37,800,000 workers are placed in jeopardy, of whom 8,200,000 have no protection at this time.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. MANSFIELD. Mr. President, I hope that the Senate will agree to the conference report. The conference report is the result of hard work on the part of committees representing the House and the Senate.

I personally am sorry that the limitation of \$350,000 was not retained. However, the distinguished senior Senator from Oregon has explained that situation, as has the distinguished senior Senator from Texas.

I am afraid that if this measure goes back to conference, it will be left wide open, and there will be no minimum wage bill this year.

The results, in my opinion, could well be disastrous.

I hope that the conference report is agreed to.

Mr. DIRKSEN. Mr. President, I shall yield myself 1 minute and then quit.

The VICE PRESIDENT. The Senator from Illinois is recognized for 1 minute.

Mr. DIRKSEN. Mr. President, the so-called filling station item was within the framework of the conference. The Senator from Vermont wanted to get that matter cured. His offer was rejected.

You had a chance to operate on it, and you did not do it. You caved in to the House conferees. That is the trouble.

Since this is a deliberative body in which we do not operate under the 5-minute rule, whenever the Senate caves in, it ought to hang its head when it comes back.

The Members of the House of Representatives complain that we swipe their pants when we go to conference. We ought to. They operate under the 5-minute rule. We do not operate under such a rule. We can discuss a measure as long as we want to. And if it is not worn threadbare when we get through, then there is something wrong with the lusty bellows and the windpipes of the Senators.

Now, are you ready to yield the remainder of your time?

Mr. PROUTY. Mr. President, I yield 1 minute to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I join my colleagues from California and Vermont in urging that the minimum wage bill be returned to a new Senate-House conference so that language covering pay for piecework by hand harvest workers can be restored and small businesses having sales of less than \$350,000 annually can be exempted from the bill.

These provisions, particularly the piecework language of section 302, are of vital importance to Wyoming and other farming States. Their exclusion from the bill would do incalculable harm to America's farm-ranch States.

I urge that the conference report be rejected and that another conference be requested and that the conferees be instructed with respect to the piecework and small business provisions.

Mr. YARBOROUGH. Mr. President, I yield myself 1 minute.

The VICE PRESIDENT. The Senator from Texas has no time remaining.

Mr. DIRKSEN. Mr. President, I yield 10 seconds to the Senator from Texas.

Mr. YARBOROUGH. Mr. President, I hope that the Senate does not cave in and collapse on this measure and send the conferees back in the manner so beautifully described by the able minority leader, this great orator.

Let us not cave in in the manner suggested by this distinguished minority leader.

Mr. DIRKSEN. Mr. President, I yield myself 10 seconds.

The VICE PRESIDENT. The Senator from Illinois is recognized.

Mr. DIRKSEN. Mr. President, I hope the Senate will not cave in on this inequity.

I yield back the remainder of my time. The VICE PRESIDENT. All time having expired, the question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. YOUNG of Ohio. Mr. President, before the call of the roll is commenced, I ask that the Vice President direct that the aisles be cleared of all attachés who are, merely out of curiosity, standing in the aisles.

The junior Senator from Ohio wants to hear every vote recorded.

The VICE PRESIDENT. The Senator from Ohio has made a very appropriate request.

All attachés will please be seated or remove themselves from the Chamber.

All time having expired, the question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RUSSELL of Georgia (when his name was called). Mr. President, on this question I have a pair with the senior Senator from Wyoming [Mr. McGEE]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The legislative clerk resumed and concluded the call of the roll.

Mr. RUSSELL of South Carolina (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Washington [Mr. MAGNUSON]. I understand that if he were present, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withdraw my vote.

Mr. INOUE. I announce that the Senator from Louisiana [Mr. LONG], and the Senator from Washington [Mr. MAGNUSON], are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Arizona [Mr. HAYDEN], and the Senator from Wyoming [Mr. McGEE], are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], and the Senator from Louisiana [Mr. LONG], would each vote "yea."

The result was announced—yeas 55, nays 38, as follows:

[Leg. No. 253]

YEAS—55

Anderson	Harris	Moss
Bass	Hart	Muskie
Bayh	Hartke	Nelson
Bible	Inouye	Neuberger
Boggs	Jackson	Pastore
Brewster	Javits	Pell
Burdick	Kennedy, Mass.	Proxmire
Byrd, W. Va.	Kennedy, N.Y.	Randolph
Cannon	Kuchel	Ribicoff
Case	Long, Mo.	Saltonstall
Church	Mansfield	Scott
Clark	McCarthy	Smith
Cooper	McGovern	Symington
Dodd	McIntyre	Tydings
Douglas	Metcalf	Williams, N.J.
Fong	Mondale	Yarborough
Gore	Monroney	Young, Ohio
Griffin	Montoya	
Gruening	Morse	

NAYS—38

Alken	Fulbright	Pearson
Allott	Hickenlooper	Prouty
Bennett	Hill	Robertson
Byrd, Va.	Holland	Simpson
Carlson	Hruska	Smathers
Cotton	Jordan, N.C.	Sparkman
Curtis	Jordan, Idaho	Stennis
Dirksen	Lausche	Talmadge
Dominick	McClellan	Thurmond
Eastland	Miller	Tower
Ellender	Morton	Williams, Del.
Ervin	Mundt	Young, N. Dak.
Fannin	Murphy	

NOT VOTING—7

Bartlett	Magnuson	Russell, S.C.
Hayden	McGee	Russell, Ga.
Long, La.		

So the report was agreed to.

Mr. YARBOROUGH. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, the Senate's acceptance of the minimum wage conference report today marks the successful culmination of a truly outstanding effort on the part of a number of Senators. Foremost were the efforts of the senior Senator from Texas [Mr. YARBOROUGH], who, as chairman of the Labor Subcommittee, worked long and hard to achieve first, a bill that could be endorsed by the Senate and second, a conference report equally satisfactory. Such an achievement on a measure as complex and difficult as this deserves the highest praise—praise highly earned by Senator YARBOROUGH.

The senior Senator from Oregon [Mr. MORSE] deserves equally high commendation for his typically strong and articulate support in committee, in conference, and on the floor. At the conference table the Senate always can count on the full utilization of Senator MORSE's great skill and talent for protecting its position to the fullest.

And, of course, the senior Senator from New York [Mr. JAVITS], the ranking minority member of the committee, added the full measure of his unexcelled advocating abilities both in conference and today on the floor to assure Senate approval.

Similarly the distinguished Senators from New Jersey [Mr. WILLIAMS], West Virginia [Mr. RANDOLPH], and Pennsylvania [Mr. CLARK] are to be commended for their characteristically marvelous support on behalf of the conference report. Without such a high degree of articulate backing by these and other Senators, surely this outstanding triumph could not have been obtained.

Finally, to those who opposed certain aspects of the conference report but who nevertheless joined to assure its disposition today we are grateful. I refer to the Senator from Vermont [Mr. PROUTY] and the Senator from Illinois [Mr. DIRKSEN], the distinguished minority leader. These Senators and others urged their own strong and sincere views in opposition but, in so characteristic a manner, did not impede or obstruct the measure. For this we are thankful.

In conclusion, I again thank the Senate as a whole for its splendid coopera-

tion in assuring orderly and efficient action today. It is the hope of the leadership that cooperation of this magnitude will continue on for the remainder of the session.

CIVIL RIGHTS ACT OF 1966

The Senate resumed the consideration of the motion of the Senator from Michigan [Mr. HART] to proceed to the consideration of the bill (H.R. 14765) to assure nondiscrimination in Federal and State jury selection and service, to facilitate the desegregation of public education and other public facilities, to provide judicial relief against discriminatory housing practices, to prescribe penalties for certain acts of violence or intimidation, and for other purposes.

CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call for the quorum under the rule be suspended on the next vote.

The VICE PRESIDENT. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. PASTORE. Mr. President, may we have order?

The VICE PRESIDENT. The Senate will be in order.

Is it the sense of the Senate that the debate on the motion to proceed to the consideration of H.R. 14765 shall be brought to a close? Under the rule, the yeas and nays are required.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Washington [Mr. MAGNUSON], is absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Arizona [Mr. HAYDEN], and the Senator from Wyoming [Mr. MCGEE], are necessarily absent.

On this vote, the Senator from Washington [Mr. MAGNUSON] and the Senator from Wyoming [Mr. MCGEE] are paired with the Senator from Arizona [Mr. HAYDEN]. If present and voting, the Senator from Washington would vote "yea," the Senator from Wyoming would vote "yea," and the Senator from Arizona would vote "nay."

The yeas and nays resulted—yeas 54, nays 42, as follows:

[Leg. No. 254]

YEAS—54

Aiken	Harris	Morse
Allott	Hart	Moss
Anderson	Hartke	Muskie
Bass	Inouye	Nelson
Bayh	Jackson	Neuberger
Boggs	Javits	Pastore
Brewster	Kennedy, Mass.	Pell
Burdick	Kennedy, N.Y.	Proxmire
Case	Kuchel	Randolph
Church	Long, Mo.	Ribicoff
Clark	Mansfield	Saltonstall
Dodd	McCarthy	Scott
Dominick	McGovern	Smith
Douglas	McIntyre	Symington
Fong	Metcalf	Tydings
Gore	Mondale	Williams, N.J.
Griffin	Monroney	Yarborough
Gruening	Montoya	Young, Ohio

NAYS—42

Bennett	Carlson	Eastland
Bible	Cooper	Ellender
Byrd, Va.	Cotton	Ervin
Byrd, W. Va.	Curtis	Fannin
Cannon	Dirksen	Fulbright

Hickenlooper	Miller	Simpson
Hill	Morton	Smathers
Holland	Mundt	Sparkman
Hruska	Murphy	Stennis
Jordan, N.C.	Pearson	Talmadge
Jordan, Idaho	Prouty	Thurmond
Lausche	Robertson	Tower
Long, La.	Russell, S.C.	Williams, Del.
McClellan	Russell, Ga.	Young, N. Dak.

NOT VOTING—4

Bartlett	Magnuson	McGee
Hayden		

The VICE PRESIDENT. On this vote there are 54 yeas and 42 nays. Under rule XXII, two-thirds of the Senators present and voting not having voted in the affirmative, the motion is not agreed to.

Mr. STENNIS. Mr. President, I ask the Vice President to restore order in the Senate before any further proceedings take place so that Senators can hear.

The VICE PRESIDENT. The request of the Senator is desirable and in order. Senators will please be seated.

The Senator from Illinois is recognized.

ORDER FOR RECESS UNTIL TOMORROW, FRIDAY, AND MONDAY—LEGISLATIVE PROGRAM

Mr. DIRKSEN. Mr. President, I would like to ask the distinguished majority leader about the program for tomorrow, and possibly the next day, and in so far as he knows, into Monday of next week, and also the hour for the convening of the Senate.

Mr. MANSFIELD. Mr. President, in response to the questions raised by my distinguished colleague, the minority leader, I would like at this time to ask unanimous consent that when the Senate completes its business today it stand in recess until 12 o'clock noon tomorrow.

The VICE PRESIDENT. Is there objection? Hearing no objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow it stand in recess until 12 o'clock noon on Friday next.

The VICE PRESIDENT. Is there objection? Hearing no objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business on Friday it stand in recess until 12 o'clock noon on Monday next.

The VICE PRESIDENT. Is there objection? Hearing no objection, it is so ordered.

Mr. MANSFIELD. Mr. President, the business will be what we have been having for the past 6 or 7 days, I may say to my distinguished colleague: the question of taking up a little bill which the distinguished Senator from Michigan [Mr. HART] has been trying for a week to bring to the attention of the Senate.

In the meantime, with the minority leader's permission, and the Senate's concurrence, we will take up unobjectioned items and keep the calendar as clear as we can.

Mr. HOLLAND. Mr. President, I could not hear the last statement.

Mr. MANSFIELD. We shall try to keep the calendar clear. There are some

bills on the calendar which have been reported by the Committee on Armed Services. There will be a couple of bills having to do with the Philippines, and one having to do with interest rates, and that will likely be brought up tomorrow.

Mr. DIRKSEN. I have one other question, and I hope the Senate will listen. The majority leader has been gracious enough to include in his unanimous-consent request at the time of the morning hour that the so-called measure which has been engaging our attention will not be motioned up in the morning hour, and I assume that he will give us assurance of that.

Mr. MANSFIELD. Absolutely, and I make that unanimous-consent request right now.

The VICE PRESIDENT. Is there objection?

Mr. RUSSELL of Georgia. Mr. President, may we have the unanimous-consent request clearly stated?

The VICE PRESIDENT. The Senator from Montana will restate his unanimous-consent request.

Mr. MANSFIELD. That it is my intention—and I make the request now—for the next 3 days, that there be a brief morning hour for the transaction of routine morning business, and that statements be limited to 3 minutes, and that the unfinished business not be displaced.

Mr. RUSSELL of Georgia. Is it the intention of the majority leader to take up legislation in the morning hour?

Mr. MANSFIELD. If it is unobjected to, but not legislation which the Senator has in mind, I can assure him. [Laughter.]

The Senator from Georgia will be fully protected.

Mr. RUSSELL of Georgia. I am glad to hear that. The distinguished Senator is psychic. I had other things in mind other than the motion which has been made by the Senator from Michigan.

Mr. JAVITS. Mr. President, reserving the right to object—

Mr. MANSFIELD. I will withdraw it—

Mr. JAVITS. No—I think the distinguished Senator misspoke himself when he said "discuss." We all understand it is not to be motioned up, but suppose a Senator wishes to say something about the pending business—

Mr. MANSFIELD. There is nothing to prevent any Senator from speaking about it.

Mr. JAVITS. That is right, but the Senator used the word "discuss" in his unanimous-consent request, which could be taken to mean that it would not be motioned up, which is fine with me.

Mr. MANSFIELD. I asked that the unfinished business not be displaced.

The VICE PRESIDENT. Is there objection to the unanimous-consent request of the Senator from Montana?

The Chair hears none, and it is so ordered.

JOINT MEETING OF THE TWO HOUSES TOMORROW

Mr. MANSFIELD. Mr. President, for the information of the Senate, all Senators will meet in the Chamber at 12:13

o'clock tomorrow. We will leave here at approximately 12:15 o'clock and proceed in a body to the Hall of the House of Representatives, for the purpose of meeting in joint meeting with the House of Representatives to hear the very distinguished President of the Philippines, Ferdinand Marcos, deliver an address to a joint session.

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

H.R. 11488. An act to authorize the grade of brigadier general in the Medical Service Corps of the Regular Army, and for other purposes; and

H.R. 13508. An act to direct the Secretary of Interior to cooperate with the States of New York and New Jersey on a program to develop, preserve, and restore the resources of the Hudson River and its shores and to authorize certain necessary steps to be taken to protect those resources from adverse Federal actions until the States and Congress shall have had an opportunity to act on that program.

A VIETNAM VIEW

Mr. ALLOTT. Mr. President, I hold in my hand a letter to the editor which was published in the Longmont Times Call, written by Charles L. Dunfee, Sr., who is now in Vietnam.

I commend his thoughts and his inspiration to all Senators, and I truly believe that they will find inspiration in his words.

Mr. President, I ask unanimous consent to have this letter printed in the RECORD.

The PRESIDING OFFICER (Mr. RUSSELL of South Carolina in the chair). Is there objection?

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

VIETNAM VIEW

(EDITOR'S NOTE.—Specialist Charles L. Dunfee, Jr., is the son of Mr. and Mrs. F. H. Dunfee of 436 Baker St., Longmont. He is a graduate of Longmont High School and has been in the Army 12 years. His wife Amy, formerly of Mead, and his three children are living in Longmont now. Charles Jr. started kindergarten Tuesday morning.)

To the EDITOR:

"Get out of Viet Nam!" I heard as I suddenly woke, wide awake. It was two o'clock in the morning, Saigon time, when I woke up with these words ringing loudly in my ears. I rolled over in the sack and tried to go back to sleep, but this thought kept running through my mind, and sleep just wasn't there. Yes, let's get out of Viet Nam! Then what? The fighting was just four miles away last night, the flares and tracers were readily visible as the sounds of battle rang clear in the night. It is now the dead quiet hours of early morning with the sounds of fighting not two hours silent, and here I lie thinking of this question, "Then What?"

After we back out of Viet Nam, I hear vividly that little voice in the back of my mind saying, "Get out of the Philippines!"

Oh, well, they are a small chain of islands, not worth fighting for. Let's not have any trouble over them. Next I hear, "Get out of Japan and Korea!" We were there before fighting, let's not go through that again, instead let's move out of there, too. What comes next? Oh, yes, "Get out of Hawaii!" Now wait a minute!!! That is one of our own states. But then again let's think this over. Hawaii is such a small place, and so far away from our mainland. Is it really worth fighting for? Then that little voice gets an even more menacing tone to it. "Get out of San Francisco!" Now we have come to the end of our backing; but now let's stop to survey the situation more clearly. Now it is America against the whole world; do you know, we look mighty small in that light.

As the hours drag by I look back now. Why am I in Viet Nam? Myself, like so many others, we asked to be here. I think I have the most beautiful, wonderful country in the world, and I want to keep it that way. I have seen the devastation in Korea, and now history is repeating itself here in Viet Nam. Let's not see the ravages of war in our own country. I really wonder, do these people at home ever think beyond the end of their noses when they cry, "Let's bring our boys home?"

The soldier has a Code by which he lives. It starts, "I am an American fighting man. I serve the forces which guard my country and our way of life. I am prepared to give my life in their defense." It ends, "I will never forget that I am an American fighting man, responsible for my actions, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America." These aren't just some words on a piece of paper. To most of us over here, it is an utterance from our very hearts. If I must fight and possibly die for my country, I do so with the knowledge that it is God's will, and I do so of my own free will. I just wish I could tell the whole world of this feeling that is within me. I dedicate my life to my wife and our three children—that if necessary I will gladly give it up with the thought of the words of our Lord when he said, "What greater love is there than if a man lay down his life for a friend." I am speaking for many men when I say that my family will live in freedom and safety because we are stopping the forces of evil over here, before it has the chance to spread to our very homes.

The dawn is beginning to break; I guess I had better get off this cloud and back to the reality that this is a hot, miserable country, and we have a bloody, stinking war that we MUST fight.

Sp5c. CHARLES L. DUNFEE, Sr.,
U.S. Army.

INTERNAL REVENUE'S NEW PROPOSED REGULATIONS ON DEDUCTIBILITY OF EDUCATIONAL EXPENSES

Mr. PEARSON. Mr. President, on July 7, 1966, the Internal Revenue Service issued notice of its intention to change the tax regulations with regard to the deductibility of educational expenses. These changes would, in essence, disallow many of the members of the teaching profession from deducting costs which they incur in bettering their abilities and skills for educating our young.

Continually, since the issuance of T.D. 6291 by the IRS in 1958, this agency has forced large numbers of teachers into litigation over their eligibility to deduct certain of their expenditures made in

obtaining new teaching knowledge. This policy was followed despite the fact that it has been a longstanding intent of Congress that expenses incurred by teachers for their education could be deducted even in cases where they were incurred voluntarily and taken for academic credit or a degree, or in expectation of an increase in salary. The position taken by the IRS was that expenses could be deducted only when the teacher had met the "minimum" qualifications for his employment, thereby in pursuing additional education it would only be to "maintain or improve" existing skills. In each of these cases, the IRS lost because the distinctions which they advanced were not in line with the recognized congressional policy.

Now the IRS has decided that what they cannot accomplish by judicial decisions can be accomplished by the issuance of new regulations. Therefore, the judicially sanctioned tests of "maintaining or improving skills" and "pursuing the requirements of employment, regardless of academic credit" have been discarded presumably because these tests rendered it too difficult to win a tax case. In its new proposed regulations, the IRS has not only reinstated the so-called minimum test which had been refuted by many judicial decisions, but had defined the test in a way which, practically speaking, ends all reasonable chance of deducting educational expenses.

The proposed regulations state that educational expenses "are not deductible as ordinary and necessary business expenses even though they may maintain or improve skills required by the individual in his present employment" if the additional training, first, qualifies "the individual for a position which he has not, at the time such education is undertaken, met the minimum education requirements"; or second, results in a "substantial advancement" of position or salary; or third, "is undertaken as a part of a program leading to attainment of a recognized level of education" such as a "degree, diploma, or similar certificate evidencing completion of a recognized education program."

Mr. President, we are in a period of history when the fourth grade child is being exposed to more technical science projects than we in our generation even dreamed, when first graders are becoming multilingual, and when sixth grade students understand complicated algebra and geometry problems, yet the IRS has proposed criteria for the deduction of teachers' expenses which are not only illogical, but completely foreign to our American concept of education. We expect our teachers to advance new ideas, but in these proposed regulations we undercut the principal initiative which motivates teachers to maintain the necessary high quality to teach these subjects. The examples offered in the regulations, section (f), illustrate this. If a teacher does not have a permanent or continuing teaching certificate he is not considered as having met his "minimum employment requirement" so that regardless of his desire to increase his knowledge, any expenses for courses which he takes are considered to be "personal expenses" to



An Act

To amend the Fair Labor Standards Act of 1938 to extend its protection to additional employees, to raise the minimum wage, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Labor Standards Amendments of 1966".

Fair Labor
Standards
Amendments of
1966.

TITLE I—DEFINITIONS

TIPS

SEC. 101. (a) Section 3(m) of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new sentence: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 per centum of the applicable minimum wage rate, except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount."

52 Stat. 1061;
75 Stat. 65.
29 USC 203.

(b) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"(t) 'Tipped employee' means any employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips."

"Tipped
employee."

DEFINITION OF ENTERPRISE

80 STAT. 830
80 STAT. 831

SEC. 102. (a) Section 3(r) of such Act is amended by adding at the end thereof the following: "For purposes of this subsection, the activities performed by any person or persons—

"(1) in connection with the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, an elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit), or

"(2) in connection with the operation of a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), shall be deemed to be activities performed for a business purpose."

(b) Section 3(d) of such Act is amended by inserting after "of a State" the following: "(except with respect to employees of a State, or a political subdivision thereof, employed (1) in a hospital, institution, or school referred to in the last sentence of subsection (r) of this section, or (2) in the operation of a railway or carrier referred to in such sentence)".

(c) Section 3(s) of such Act is amended to read as follows:

"(s) 'Enterprise engaged in commerce or in the production of goods for commerce' means an enterprise which has employees engaged in

"Enterprise en-
gaged in com-
merce, etc."

commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person, and which—

“(1) during the period February 1, 1967, through January 31, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than \$500,000 (exclusive of excise taxes at the retail level which are separately stated) or is a gasoline service establishment whose annual gross volume of sales is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated), and beginning February 1, 1969, is an enterprise whose annual gross volume of sales made or business done is not less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated);

80 STAT. 831

80 STAT. 832

“(2) is engaged in laundering, cleaning, or repairing clothing or fabrics;

“(3) is engaged in the business of construction or reconstruction, or both; or

“(4) is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, an elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit).

Any establishment which has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise, and the sales of such establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection.”

(d) Section 3 of such Act is amended by adding after subsection (u) (added by section 103(b) of this Act) the following new subsections:

"Elementary school."

“(v) ‘Elementary school’ means a day or residential school which provides elementary education, as determined under State law.

"Secondary school."

“(w) ‘Secondary school’ means a day or residential school which provides secondary education, as determined under State law.”

AGRICULTURAL EMPLOYEES

52 Stat. 1060.

29 USC 203.

"Employee."

SEC. 103. (a) Section 3(e) of such Act is amended to read follows:

“(e) ‘Employee’ includes any individual employed by an employer, except that such term shall not, for the purposes of section 3(u) include—

“(1) any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer’s immediate family, or

“(2) any individual who is employed by an employer engaged in agriculture if such individual (A) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (B) commutes daily from his permanent residence to the farm on which he is so employed, and (C) has been employed in agriculture less than thirteen weeks during the preceding calendar year.”

(b) Section 3 of such Act is further amended by adding after subsection (t) (added by section 101(b) of this Act) the following new subsection:

"(u) 'Man-day' means any day during which an employee performs "Man-day." any agricultural labor for not less than one hour."

TITLE II—REVISION OF EXEMPTIONS

HOTEL, RESTAURANT, AND RECREATIONAL ESTABLISHMENTS; HOSPITALS AND RELATED INSTITUTIONS

SEC. 201. (a) Section 13(a)(2) of such Act is amended by striking out everything preceding "A 'retail or service establishment'" and inserting in lieu thereof the following:

"(2) any employee employed by any retail or service establishment (except an establishment or employee engaged in laundering, cleaning, or repairing clothing or fabrics or an establishment engaged in the operation of a hospital, institution, or school described in section 3(s)(4)), if more than 50 per centum of such establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, and such establishment is not in an enterprise described in section 3(s) or such establishment has an annual dollar volume of sales which is less than \$250,000 (exclusive of excise taxes at the retail level which are separately stated)." 75 Stat. 71.
29 USC 213.
Ante, p. 831.

(b)(1) Section 13(b) of such Act is amended by inserting after paragraph (7) the following new paragraph in lieu of the paragraph repealed by section 211 of this Act:

"(8) any employee employed by an establishment which is a hotel, motel, or restaurant; or any employee who (A) is employed by an establishment which is an institution (other than a hospital) primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises, and (B) receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or".

(2) Section 13(a) of such Act is amended by inserting after paragraph (2) the following new paragraph in lieu of the paragraph repealed by section 202 of this Act:

"(3) any employee employed by an establishment which is an amusement or recreational establishment, if (A) it does not operate for more than seven months in any calendar year, or (B) during the preceding calendar year, its average receipts for any six months of such year were not more than $33\frac{1}{3}$ per centum of its average receipts for the other six months of such year; or".

LAUNDRY AND CLEANING ESTABLISHMENTS

SEC. 202. Section 13(a)(3) of such Act is repealed.

Repeal.

AGRICULTURAL EMPLOYEES

SEC. 203. (a) Section 13(a)(6) of such Act is amended to read as follows:

"(6) any employee employed in agriculture (A) if such employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred man-days of agricultural labor, (B) if such employee is the parent, spouse, child, or other member of his

employer's immediate family, (C) if such employee (i) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) commutes daily from his permanent residence to the farm on which he is so employed, and (iii) has been employed in agriculture less than thirteen weeks during the preceding calendar year, (D) if such employee (other than an employee described in clause (C) of this subsection) (i) is sixteen years of age or under and is employed as a hand harvest laborer, is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) is employed on the same farm as his parent or person standing in the place of his parent, and (iii) is paid at the same piece rate as employees over age sixteen are paid on the same farm, or (E) if such employee is principally engaged in the range production of livestock; or".

Repeal.
75 Stat. 72.
29 USC 213.

(b) Section 13(a)(16) of such Act (agricultural employee employed in livestock auctions) is repealed.

(c) Section 13(b) of such Act is amended—

(A) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; or", and

(B) by adding at the end of paragraph (11) the following new paragraphs:

"(12) any employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a sharecrop basis, and which are used exclusively for supply and storing of water for agricultural purposes; or

"(13) any employee with respect to his employment in agriculture by a farmer, notwithstanding other employment of such employee in connection with livestock auction operations in which such farmer is engaged as an adjunct to the raising of livestock, either on his own account or in conjunction with other farmers, if such employee (A) is primarily employed during his workweek in agriculture by such farmer, and (B) is paid for his employment in connection with such livestock auction operations at a wage rate not less than that prescribed by section 6(a)(1); or".

Post, p. 838.
63 Stat. 918.

(d) Section 13(c) of such Act is amended to read as follows:

"(c) (1) Except as provided in paragraph (2), the provisions section 12 relating to child labor shall not apply with respect to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed.

"(2) The provisions of section 12 relating to child labor shall apply to an employee below the age of sixteen employed in agriculture in an occupation that the Secretary of Labor finds and declares to be particularly hazardous for the employment of children below the age of sixteen, except where such employee is employed by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person.

"(3) The provisions of section 12 relating to child labor shall not apply to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions."

29 USC 212.

AGRICULTURAL PROCESSING EMPLOYEES

Repeals.

SEC. 204. (a) Sections 13 (a)(10) (employees engaged in handling and processing of agricultural, horticultural, and dairy prod-

ucts); 13(a)(17) (country elevator employees); 13(a)(18) (cotton ginning employees); and 13(a)(22) (fruit and vegetable transportation employees) of such Act are repealed.

(b) Section 13(b) of such Act is amended by adding after paragraph (13) (added by section 203(c) of this Act) the following new paragraphs:

“(14) any employee employed within the area of production (as defined by the Secretary) by an establishment commonly recognized as a country elevator, including such an establishment which sells products and services used in the operation of a farm, if no more than five employees are employed in the establishment in such operations; or

“(15) any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities, or in the processing of sugar beets, sugar-beet molasses, sugarcane, or maple sap, into sugar (other than refined sugar) or syrup; or

“(16) any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables, whether or not performed by the farmer, from the farm to a place of first processing or first marketing within the same State, or (B) in transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables; or”.

(c) Subsection (c) of section 7 of such Act is amended to read as follows:

63 Stat. 913.
29 USC 207.

“(c) For a period or periods of not more than ten workweeks in the aggregate in any calendar year, or fourteen workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (d) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection if such employee (1) is employed by such employer in an industry found by the Secretary to be of a seasonal nature, and (2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment by such employer in excess of fifty hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

“(d) For a period or periods of not more than ten workweeks in the aggregate in any calendar year, or fourteen workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (c) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection, if such employee—

“(1) is employed by such employer in an enterprise which is in an industry found by the Secretary—

“(A) to be characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of agricultural or horticultural commodities from farms if such industry is engaged in the handling, packing, preparing, storing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, or

“(B) to be of a seasonal nature and engaged in the handling, packing, storing, preparing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, and

80 STAT. 836

"(2) receives compensation for employment by such employer in excess of ten hours in any workday, or for employment in excess of forty-eight hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed."

63 Stat. 913;
75 Stat. 70.
29 USC 207.

(d) (1) Subsections (d), (e), (f), (g), and (h) of section 7 of such Act are redesignated as subsections (e), (f), (g), (h), and (i), respectively.

(2) Subsections (g) and (h) of such section 7 (as so redesignated by paragraph (1) of this subsection) are each amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

SMALL NEWSPAPERS

75 Stat. 72.
29 USC 213.

SEC. 205. Section 13(a) (8) of such Act is amended by striking out "where printed and published" and inserting in lieu thereof "where published".

TRANSPORTATION COMPANIES

Repeals.

SEC. 206. (a) Section 13(a) (9) of such Act is repealed.

(b) (1) Section 13(a) (12) of such Act is repealed.

(2) Section 13(b) of such Act is amended by adding after paragraph (16) (added by section 204(b) of this Act) the following new paragraph:

"(17) any driver employed by an employer engaged in the business of operating taxicabs; or".

(c) Section 13(b) (7) of such Act is amended to read as follows:

"(7) any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency; or".

MOTION PICTURE THEATER EMPLOYEES

SEC. 207. Section 13(a) of such Act is amended by inserting after paragraph (8) the following new paragraph in lieu of the paragraph repealed by section 206(a) of this Act:

"(9) any employee employed by an establishment which is a motion picture theater; or".

LOGGING CREWS

Post, p. 838.

SEC. 208. Section 13(a) (15) of such Act is amended by striking out "twelve" and inserting in lieu thereof "eight".

AUTOMOBILE, AIRCRAFT, AND FARM IMPLEMENT SALES ESTABLISHMENTS

Repeal.

SEC. 209. (a) Section 13(a) (19) of such Act is repealed.

(b) Section 13(b) of such Act is amended by inserting after paragraph (9) the following new paragraph in lieu of the paragraph repealed by section 212(a) of this Act:

"(10) any salesman, partsman, or mechanic primarily engaged in selling or servicing automobiles, trailers, trucks, farm implements, or aircraft if employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles to ultimate purchasers; or".

FOOD SERVICE AND BOWLING ESTABLISHMENT EMPLOYEES

SEC. 210. (a) Section 13(a)(20) of such Act is repealed.

Repeal.

(b) Section 13(b) of such Act is amended by adding after paragraph (17) (added by section 206(b)(2) of this Act) the following new paragraphs:

75 Stat. 73.
29 USC 213.

"(18) any employee of a retail or service establishment who is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs; or

"(19) any employee of a bowling establishment if such employee receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed."

GASOLINE SERVICE STATIONS

SEC. 211. Section 13(b)(8) of such Act is repealed.

Repeal.

PETROLEUM DISTRIBUTION EMPLOYEES

SEC. 212. (a) Section 13(b)(10) of such Act is repealed.

Repeal.

(b) Section 7(b)(3) of such Act is amended to read as follows:

63 Stat. 913.
29 USC 207.

"(3) by an independently owned and controlled local enterprise (including an enterprise with more than one bulk storage establishment) engaged in the wholesale or bulk distribution of petroleum products if—

"(A) the annual gross volume of sales of such enterprise is less than \$1,000,000 exclusive of excise taxes,

"(B) more than 75 per centum of such enterprise's annual dollar volume of sales is made within the State in which such enterprise is located, and

"(C) not more than 25 per centum of the annual dollar volume of sales of such enterprise is to customers who are engaged in the bulk distribution of such products for resale, and such employee receives compensation for employment in excess of forty hours in any workweek at a rate not less than one and one-half times the minimum wage rate applicable to him under section 6,".

Post, p. 838.

ENIWETOK AND KWAJALEIN ATOLLS AND JOHNSTON ISLAND

SEC. 213. Section 13(f) of such Act is amended by striking out "and the Canal Zone" and inserting in lieu thereof "Eniwetok Atoll; Kwajalein Atoll; Johnston Island; and the Canal Zone".

71 Stat. 514.
29 USC 213.

ELEMENTARY AND SECONDARY SCHOOL TEACHERS AND SCHOOL ADMINISTRATIVE PERSONNEL

SEC. 214. Section 13(a)(1) of such Act is amended by inserting after "professional capacity" the following: "(including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools)".

75 Stat. 71.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 215. (a) Section 3(n) of such Act is amended by striking out "except as used in subsection (s)(1),".

29 USC 203.
Ante, p. 831.

75 Stat. 72.
29 USC 213.

(b) Section 13(a) of such Act is amended—

(1) by redesignating paragraphs (11), (13), (14), (15), and (21) as paragraphs (10), (11), (12), (13), and (14), respectively, and

(2) by striking out “; or” at the end of paragraph (14) (as so redesignated in this subsection) and inserting in lieu thereof a period.

(c) Paragraph (7) of section 13(a) of such Act is amended by striking out “or order” and inserting in lieu thereof “, order, or certificate”.

TITLE III—INCREASE IN MINIMUM WAGE

PRESENTLY COVERED EMPLOYEES

52 Stat. 1062;
75 Stat. 67.
29 USC 206.

SEC. 301. (a) Section 6(a) of such Act is amended by amending that portion of the section preceding paragraph (2) to read as follows:

“(a) Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates:

“(1) not less than \$1.40 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966 and not less than \$1.60 an hour thereafter, except as otherwise provided in this section;”.

(b) Such section is amended by striking out the period at the end of paragraph (3) and inserting a semicolon, and by adding the following new paragraph:

“(4) if such employee is employed as a seaman on an American vessel, not less than the rate which will provide to the employee, for the period covered by the wage payment, wages equal to compensation at the hourly rate prescribed by paragraph (1) of this subsection for all hours during such period when he was actually on duty (including periods aboard ship when the employee was on watch or was, at the direction of a superior officer, performing work or standing by, but not including off-duty periods which are provided pursuant to the employment agreement); or”.

AGRICULTURAL EMPLOYEES

SEC. 302. Section 6(a) of such Act is amended by adding after paragraph (4) (added by section 301(b) of this Act) the following new paragraph:

“(5) if such employee is employed in agriculture, not less than \$1 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1966, not less than \$1.15 an hour during the second year from such date, and not less than \$1.30 an hour thereafter.”

NEWLY COVERED EMPLOYEES

SEC. 303. Section 6(b) of such Act is amended to read as follows:

“(b) Every employer shall pay to each of his employees (other than an employee to whom subsection (a) (5) applies) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this section by the amendments made to this Act by

the Fair Labor Standards Amendments of 1966, wages at the following rates:

- “(1) not less than \$1 an hour during the first year from the effective date of such amendments,
- “(2) not less than \$1.15 an hour during the second year from such date,
- “(3) not less than \$1.30 an hour during the third year from such date,
- “(4) not less than \$1.45 an hour during the fourth year from such date, and
- “(5) not less than \$1.60 an hour thereafter.”

EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 304. Section 6(c) of such Act is amended to read as follows: 75 Stat. 67.
“(c) (1) The rate or rates provided by subsections (a) and (b) of 29 USC 206.
this section shall be superseded in the case of any employee in Puerto Rico or the Virgin Islands only for so long as and insofar as such Ante, p. 838.
employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5.

“(2) In the case of any such employee who is covered by such a wage order and to whom the rate or rates prescribed by subsection (a) would otherwise apply, the following rates shall apply: 63 Stat. 911.
29 USC 205.

“(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, increased by 12 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1966 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

“(B) Beginning one year after the applicable effective date under paragraph (A), not less than the rate or rates prescribed by paragraph (A), increased by an amount equal to 16 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1966, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C).

“(C) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a review committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by paragraph (A) or (B). Any such application with respect to any rate or rates provided for under paragraph (A) shall be filed within sixty days following the enactment of the Fair Labor Standards Amendments of 1966 and any such application with respect to any rate or rates provided for under paragraph (B) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the applicable rate or rates under paragraph (B). The Secretary shall promptly consider such application and may appoint a

review committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (A) or (B) will substantially curtail employment in such industry. The Secretary's decision upon any such application shall be final. Any wage order issued pursuant to the recommendations of a review committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (A) or (B).

"(D) In the event a wage order has not been issued pursuant to the recommendation of a review committee prior to the applicable effective date under paragraph (A) or (B), the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application under paragraph (C) and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

Ante, p. 838. "(3) In the case of any such employee to whom subsection (a) (5) or subsection (b) would otherwise apply, the Secretary shall within sixty days after the effective date of the Fair Labor Standards Amendments of 1966 appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates in accordance with the standards prescribed by section 8, but not in excess of the applicable rate provided by subsection (a) (5) or subsection (b), to be applicable to such employee in lieu of the rate or rates prescribed by subsection (a) (5) or subsection (b), as the case may be. The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1966.

63 Stat. 911,
915.
29 USC 205,
208. "(4) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to review committees appointed under this subsection. The appointment of a review committee shall be in addition to and not in lieu of any special industry committee required to be appointed pursuant to the provisions of subsection (a) of section 8, except that no special industry committee shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary by a review committee to be paid in lieu of the rate or rates provided for under paragraph (A) or (B). The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee."

CONTRACT SERVICES TO FEDERAL GOVERNMENT

SEC. 305. Section 6 of such Act is amended by adding at the end thereof the following new subsection: Ante, pp. 838-840.

"(e) (1) Notwithstanding the provisions of section 13 of this Act (except subsections (a) (1) and (f) thereof), every employer providing any contract services (other than linen supply services) under a contract with the United States or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965 (41 U.S.C. 351-357) or to whom subsection (a) (1) of this section is not applicable, wages at rates not less than the rates provided for in subsection (b) of this section. 79 Stat. 1034. Ante, p. 838.

"(2) Notwithstanding the provisions of section 13 of this Act (except subsections (a) (1) and (f) thereof) and the provisions of the Service Contract Act of 1965, every employer in an establishment providing linen supply services to the United States under a contract with the United States or any subcontract thereunder shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (b), except that if more than 50 per centum of the gross annual dollar volume of sales made or business done by such establishment is derived from providing such linen supply services under any such contracts or subcontracts, such employer shall pay to each of his employees in such establishment wages at rates not less than those prescribed in subsection (a) (1) of this section."

FEDERAL EMPLOYEES

SEC. 306. Section 18 of such Act is amended by inserting "(a)" immediately after "SEC. 18." and by adding at the end thereof the following new subsection: 52 Stat. 1069. 29 USC 218.

"(b) Notwithstanding any other provision of this Act (other than section 13 (f)) or any other law, any employee—

"(1) described in paragraph (7) of section 202 of the Classification Act of 1949 (5 U.S.C. 1082 (7)) whose compensation is required to be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates, and any Federal employee in the Canal Zone engaged in employment of the kind described in such paragraph (7), or Ante, p. 837. 68 Stat. 1106.

"(2) described in section 7474 of title 10, United States Code, whose rates of wages are established to conform, as nearly as is consistent with the public interest, with those of private establishments in the immediate vicinity, or 70A Stat. 463.

"(3) employed in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces, shall have his basic compensation fixed or adjusted at a wage rate which is not less than the appropriate wage rate provided for in section 6 (a) (1) of this Act (except that the wage rate provided for in section 6 (b) shall apply to any employee who performed services during the workweek in a work place within the Canal Zone), and shall have his overtime compensation set at an hourly rate not less than the overtime rate provided for in section 7 (a) (1) of this Act." Infra.

TITLE IV—APPLICATION OF MAXIMUM HOURS PROVISIONS

PRESENTLY AND NEWLY COVERED EMPLOYEES

SEC. 401. Section 7 (a) of such Act is amended to read as follows: 63 Stat. 912; 75 Stat. 69. 29 USC 207.
 "(a) (1) Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in

commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

“(2) No employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, and who in such workweek is brought within the purview of this subsection by the amendments made to this Act by the Fair Labor Standards Amendments of 1966—

“(A) for a workweek longer than forty-four hours during the first year from the effective date of the Fair Labor Standards Amendments of 1966,

“(B) for a workweek longer than forty-two hours during the second year from such date, or

“(C) for a workweek longer than forty hours after the expiration of the second year from such date, unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.”

COMMISSION SALESMAN

SEC. 402. Subsection (i) of section 7 of such Act (as so redesignated by section 204(d) of this Act) is amended by adding at the end thereof the following new sentence: “In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be deemed commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.”

HOSPITAL EMPLOYEES

SEC. 403. Section 7 of such Act is amended by adding after subsection (i) of such section (as so redesignated by section 204(d) (1) of this Act) the following new subsection:

“(j) No employer engaged in the operation of a hospital shall be deemed to have violated subsection (a) if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of fourteen consecutive days is accepted in lieu of the workweek of seven consecutive days for purposes of overtime computation and if, for his employment in excess of eight hours in any workday and in excess of eighty hours in such fourteen-day period, the employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed.”

TITLE V—STUDENTS AND HANDICAPPED WORKERS

STUDENTS AND HANDICAPPED WORKERS

52 Stat. 1068.
29 USC 214.

SEC. 501. Section 14 of such Act is amended to read as follows:

“LEARNERS, APPRENTICES, STUDENTS, AND HANDICAPPED WORKERS

“SEC. 14. (a) The Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for the employment of learners, of apprentices, and of messengers employed primarily in delivering

letters and messages, under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe. *Ante*, pp. 838, 841.

“(b) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment of full-time students, regardless of age but in compliance with applicable child labor laws, on a part-time basis in retail or service establishments (not to exceed twenty hours in any workweek) or on a part-time or a full-time basis in such establishments during school vacations, under special certificates issued pursuant to regulations of the Secretary, at a wage rate not less than 85 per centum of the minimum wage applicable under section 6, except that the proportion of student hours of employment to total hours of employment of all employees in any establishment may not exceed (1) such proportion for the corresponding month of the twelve-month period preceding May 1, 1961, (2) in the case of a retail or service establishment whose employees (other than employees engaged in commerce or in the production of goods for commerce) are covered by this Act for the first time on or after the effective date of the Fair Labor Standards Amendments of 1966, such proportion for the corresponding month of the twelve-month period immediately prior to such date, or (3) in the case of a retail or service establishment coming into existence after May 1, 1961, or a retail or service establishment for which records of student hours worked are not available, a proportion of student hours of employment to total hours of employment of all employees based on the practice during the twelve-month period preceding May 1, 1961, in (A) similar establishments of the same employer in the same general metropolitan area in which the new establishment is located, (B) similar establishments of the same employer in the same or nearby counties if the new establishment is not in a metropolitan area, or (C) other establishments of the same general character operating in the community or the nearest comparable community. Before the Secretary may issue a certificate under this subsection he must find that such employment will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under this subsection.

“(c) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by certificate or order provide for the employment of full-time students, regardless of age but in compliance with applicable child labor laws, on a part-time basis in agriculture (not to exceed twenty hours in any workweek) or on a part-time or a full-time basis in agriculture during school vacations, at a wage rate not less than 85 per centum of the minimum wage applicable under section 6. Before the Secretary may issue a certificate or order under this subsection he must find that such employment will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under this subsection.

“(d) (1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, the Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment under special certificates of individuals (including individuals employed in agriculture) whose earning or productive capacity is impaired by age or physical or mental deficiency or injury, at wages which are lower than the minimum wage applicable under section 6 of this Act but not less

than 50 per centum of such wage and which are commensurate with those paid nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work.

"(2) The Secretary, pursuant to such regulations as he shall prescribe and upon certification of the State agency administering or supervising the administration of vocational rehabilitation services, may issue special certificates for the employment of—

"(A) handicapped workers engaged in work which is incidental to training or evaluation programs, and

"(B) multihandicapped individuals and other individuals whose earning capacity is so severely impaired that they are unable to engage in competitive employment, at wages which are less than those required by this subsection and which are related to the worker's productivity.

"(3) (A) The Secretary may by regulation or order provide for the employment of handicapped clients in work activities centers under special certificates at wages which are less than the minimums applicable under section 6 of this Act or prescribed by paragraph (1) of this subsection and which constitute equitable compensation for such clients in work activities centers.

Ante, pp. 838,
841.

"Work activ-
ities centers."

"(B) For purposes of this section, the term 'work activities centers' shall mean centers planned and designed exclusively to provide therapeutic activities for handicapped clients whose physical or mental impairment is so severe as to make their productive capacity inconsequential."

TITLE VI—MISCELLANEOUS

STATUTE OF LIMITATIONS

63 Stat. 919.
29 USC 216.

SEC. 601. (a) Section 16(c) of such Act is amended by striking out "two-year statute" and by inserting in lieu thereof "statutes".

61 Stat. 87.
29 USC 255.

(b) Section 6(a) of the Portal-to-Portal Act of 1947 (Public Law 49, Eightieth Congress) is amended by inserting before the semicolon at the end thereof the following: ", except that a cause of action arising out of a willful violation may be commenced within three years after the cause of action accrued".

EFFECTIVE DATE

SEC. 602. Except as otherwise provided in this Act, the amendments made by this Act shall take effect on February 1, 1967. On and after the date of the enactment of this Act the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

STUDY OF EXCESSIVE OVERTIME

SEC. 603. The Secretary of Labor is hereby instructed to commence immediately a complete study of present practices dealing with overtime payments for work in excess of forty hours per week and the extent to which such overtime work impedes the creation of new job opportunities in American industry. The Secretary is further instructed to report to the Congress by July 1, 1967, the findings of such survey with appropriate recommendations.

Report to
Congress.

CANAL ZONE EMPLOYEES AND PANAMA CANAL STUDY

SEC. 604. The Secretary of Labor, in cooperation with the Secretary of Defense and the Secretary of State, shall (1) undertake a study

with respect to (A) wage rates payable to Federal employees in the Canal Zone engaged in employment of the kind described in paragraph (7) of section 202 of the Classification Act of 1949 (5 U.S.C. 1082(7)) and (B) the requirements of an effective and economical operation of the Panama Canal, and (2) report to the Congress not later than July 1, 1968, the results of his study together with such recommendations as he may deem appropriate.

68 Stat. 1106.
Report to
Congress.

STUDY OF WAGES PAID HANDICAPPED CLIENTS IN SHELTERED WORKSHOPS

SEC. 605. The Secretary of Labor is hereby instructed to commence immediately a complete study of wage payments to handicapped clients of sheltered workshops and of the feasibility of raising existing wage standards in such workshops. The Secretary is further instructed to report to the Congress by July 1, 1967, the findings of such study with appropriate recommendations.

Report to
Congress.

PREVENTION OF DISCRIMINATION BECAUSE OF AGE

SEC. 606. The Secretary of Labor is hereby directed to submit to the Congress not later than January 1, 1967 his specific legislative recommendations for implementing the conclusions and recommendations contained in his report on age discrimination in employment made pursuant to section 715 of Public Law 88-352. Such legislative recommendations shall include, without limitation, provisions specifying appropriate enforcement procedures, a particular administering agency, and the standards, coverage, and exemptions, if any, to be included in the proposed enactment.

Recommendations
to Congress.

78 Stat. 265.
42 USC 2000e-14.

Approved September 23, 1966.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 1366 (Comm. on Education and Labor)
and No. 2004 (Comm. of Conference).
SENATE REPORT No. 1487 (Comm. on Labor and Public Welfare).
CONGRESSIONAL RECORD, Vol. 112 (1966):
May 24, 25: Considered in House.
May 26: Considered and passed House.
Aug. 24, 25: Considered in Senate.
Aug. 26: Considered and passed Senate, amended.
Sept. 7: House agreed to conference report.
Sept. 14: Senate agreed to conference report.

